Supreme Court, U.S.
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No. 99-11174-F

IN THE
Supreme Court of the United States

PEARL MORICE
Petitioner
v.

EG&G FLORIDA, INC., SHERIKON INC,
AND INTERNATIONAL ASSOCIATION OF
MACHINISTSAND AEROSPACE WORKERS
Respondents

On petition For Writ Of Certiorari
To the United States Court of Appeals
Eleventh Circuit Atlanta Georgia

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Does refusal of a Trial Court to hear evidence, of which it is the sole finder of fact, constitutes denial of due process to a Plaintiff Jeopardized with dismissal?

2. Does refusal of a Trial Court to exercise jurisdiction over a "union claim", constitutes denial of due process in a District Court, conflict with laws governing FCRA claims?

3. Did the Trial Court over extend its authority, by dismissal of a case no longer under its jurisdiction, constitutes denial of due process of a jury Trial?

4. Was the Judgment of the Trial Court, against the weight of the evidence?

5. Does refusal of the Court of Appeals to hear Petitioner,' only permissible fact-finder adjudication As an "appeal," deny due process to a Plaintiff Jeopardized with dismissal?

6. Does agreement by the Court of Appeals, with the Disciplinary Rule Fed. R. App. P. 39 after refusing to hear evidence, of which it is the sole finder of facts, prohibits filing authentic claims, violates the right of due process under the Fourteenth Amendment, U.S. Constitution?

7. Was the Judgment of the Court of Appeals, against the weight of the evidence?

Jeopardy of life' style insufficient, massacre of reputation, abandonment, a threat to the privilege of fair employment, promotes breach of contracts. Motivated by greed to eliminate any presumable threats to the overall job performance of the contract and ostracized. Offends ethical integrity, reduces confidence and trust in our legal system.

1. Refusal of the Trial Court to hear evidence, of which it is the sole finder of fact, constitutes denial of due process to a Plaintiff Jeopardized with dismissal.

2. The Trial Court refusal to exercise jurisdiction over a "union claim", constitutes denial of due process in a District Court, conflict with laws governing FCRA claims.

3. The Trial Court over extended its authority, by dismissing a case no longer under its jurisdiction, constitutes denial of due process of a jury Trial.

4. The Judgment of the Trial Court was against the weight of the evidence.

5. Refusal of the Court of Appeals to hear, Petitioner' only permissible fact-finder adjudication as an "appeal," deny due process to a Plaintiff Jeopardized with dismissal,

6. By the Court of Appeals agreeing with the Disciplinary Rule Fed. R. App. P. 39 after refusing to hear evidence, of which it is the sole finder of facts, prohibits filing authentic claims, violates the right to due process under the Fourteenth Amendment, U.S. Constitution.

7. The Judgment of the Court of Appeals was against the weight of the evidence.

PARTIES TO THE PROCEEDING

United States Court Of Appeals Circuit Judges
Eleventh Circuit Atlanta Georgia
Black
Carnes
Circuit Judge
Marcus

United States District Judges
For the Middle District of Florida
Anne C. Conway
Trial Judge
G. Kendall Sharp
Patricia C. Fawsett
David A. Baker
Magistrate Judge
Richard D. Sletten
Deputy Clerk

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John M. Finnigan
Attorneys for Defendants EG&G
Ford & Harrison LLP
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EG&G Florida, Inc. & EG&G Inc. Defendants

Berger Davis
Attorney for Defendants Sherikon
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Sherikon Inc. Defendants

Jill Hanson
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Law Firm of Attorneys for Defendants IAM
International Association of Machinists
And Aerospace Workers, Defendants

National Aeronautics and Space Administration
John F. Kennedy Space Center

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Petitioner' beseech you Justices, of the Supreme Court in the interest of Justice, that a writ of certiorari issue to review, the judgment entered in this proceeding on April 27, 1999. And the opinion upon which the judgment was based, the judgment entered September 15, 2000, and the opinion upon which that judgment was based.

OPINIONS BELOW

The Judgment of the Trial Court (April 27, 1999) appears in the appendix, as Appendices A and B. The Judgment of the Court of Appeals (September 15, 2000 appears in the appendix, as Appendices C, E and F The Order of the Court of Appeals denying the petitioner ' request for a rehearing (October 18,2000 appears in the appendix, as appendices E and F

STATEMENT OF JURISDICTION

The Judgment of the Trial Court was entered April 27, 1999. (See App. A) The Judgment of the U.S. Court of Appeals was entered on September 15, 2000, (see app. C) the request for rehearing was denied on October 18, 2000. (See app. E) This petition for certiorari is being filed within 90 days of that date.

Jurisdiction is invoked under 28 U.S.C. section 1257. Petitioner in her "Appeal" herein expressly raised the federal constitutional issues and subsidiary pleadings encompassed by the subject of discrimination.

Supreme Court of the United States has final Jurisdiction over Proceedings filed in both District Courts and U. S. Courts of Appeals. Since this action was before the U.S. Court of Appeals, its denial to "review evidence " based solely on the decision of the Trial Court. Upholding the

Here in challenged judgment. (n. 1) (n. 2)

n. 1 "Sir Speedy, Inc. v. L& P Graphics, Inc., 957 F.2d 1033, 1038-39 (2d Cir. 1992) (quoting Simblest v. Maynard, 427 F. 2d 1, 4 (2d Cir, 1970).

n. 2 cert. denied, 510 U.S. 1164, 114 S.Ct. 1189, 127 L.Ed. 2d 539 (1994); DeMarco v. Holy Cross High Sch., 4 F. 3d 166, 170 (2d Cir. 1993).

The District Court Appealed from in this cause be and the same are hereby AFFIRMED;" suffice for the U. S. Supreme Court 's exercise of section 1257 Jurisdiction.

PROVISIONS INVOLVED

The statutory basis for this complaint in part by the Fifth Amendment of the U. S. Constitution, under that provision protected by the Equal Protection Clause, discrimination because of their race, religion, and nationality, and by the categories of "suspect classification" disability.

By the Fourteenth Amendment of the Federal Constitution under that provision, no state can deprive any person of life, "liberty" or property without due process of law. Also an act which seriously limits the right to "labor" or the right of contract in regard to their means of "livelihood". (Emphasis supplied)

By the National Labor Relations Act, an act of Congress regulating commerce, and hence action for union's breach of duty of fair representation is one " Arising under" such a statute within meaning of Statute conferring jurisdiction upon District Court.

"The Supreme Court, by rules promulgated from time to time shall regulate pleading, practice and procedure in judicial proceedings in all courts of the state for the purpose of simplifying such pleading, practice and procedure.

And promoting speedy Determination of litigation upon its merits, the rules shall not abridge, enlarge or modify the substantive rights of a litigant" (Emphasis added)

Therefore, the sole remedy available to victims of Trail Courts and Court of Appeals and their Judgments of which is against the weight of the evidence, is to seek review of perceivable federal constitutional violation of one's rights by way of certiorari from the United States Supreme Court.

BACKGROUND

This complaint originated at (KSC) "Kennedy Space Center, where " (NASA) "National Aeronautics and Space Administration " is the Government contractor. NASA' daily operations are contracted out to two prime contractors, one for ground base support and the other for Air shuttle support. Each prime contractor subs out certain departments to sub-contractors.

EG&G FL. Inc., was the ground base contractor, Lockheed Martin was the Air base contractor, the re-bidding process occurs primarily every seven to ten years, or at NASA' command.

EG&G failed to excise reasonable care over a supervisor who's conduct was discriminatory, he misused supervisory authority, he was out of control, and an eagle beaver and power hungry. EG&G had "knowledge" of his behavior and under "Negligence Standards" failed to prevent his discriminatory actions. EG&G breached an existing contractor.

Sherikon "had knowledge" of the discrimination and willingly participated in the discriminatory acts. Sherikon breached the agreement of which it had agreed to.

IAM Union refused to represent the Petitioner, a dues paying member of the union. Thereby, "knowingly" beached a valid contract. In a dispute "arising" out of a contract change.

STATEMENT OF THE CASE

Irreparable, unquestionable damage was inflicted, by the discriminatory actions of "EG&G" Florida, Inc., (EG&G) the prime Contractor, "Sherikon" Inc, (Sherikon)the sub-contractor to EG&G, and by the "International Association of Machinists and Aerospace Workers. " (IAM Union.) All three defendants participated in the wrongful dismissal of the petitioner'. EG&G' supervisor is responsible for the massacre of the petitioner' reputation, which sent warning flags throughout the Aeronautics and Space Administration which prevents the then forty six year petitioner from acquiring work she has been accustomed too. Which has seriously changed the petitioner's then viable lifestyle to that of paupers.

Morice has some genuine concerns, taking this stand, filing a complaint of discrimination, against Contractors' of "NASA " a well known, powerful, public and political Government contractor, realizing the topic of discrimination is unfavorable, and to some a mere bad or ugly word.

Although fearlessly out number, Morice is a sincere believer in justice, and there are no justifiable excuses for discrimination. Therefore, Morice must to take a strong stand for justice, because "an injustice anywhere becomes a threat to Justice everywhere."

STATEMENT OF THE FACTS

This claim is that, of a dispute, "arising" out of a contract Change, on October 31, 1993. Against the defendants In part for making presumptions, that Morice and other former employees were disable. And would be unable to execute and accomplish daily job functions, and in part for race and sex.

Refusal of a Trial Court to hear evidence, of which it is the sole finder of fact, constitutes denial of due process to a Plaintiff Jeopardized with dismissal.

On February 25, 1997 Morice file a complaint of discrimination against the three defendants in the U.S. District Court. The Trail Court refused to "seek review" or "acknowledge" the findings of facts and evidence of which was in the Trial Courts record.

The Trial Court record revealed indisputable factual findings. Such As: (1.) Morice was a due's paying member of the Union, (n.3), and under the protection of (a collective bargaining agreement). (2.) A valid contract existed between Morice and all three defendants. (n. 4) (n.5) (n. 6) and all three Defendants were obligated by the existing contract.

n. 3. COLLECTIVE BARGAINING AGREEMENT OF JUNE 4, 1993 BETWEEN EG&G FLORIDA, INC. AND INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS AFL-CIO Kennedy Space Center, Florida Effective Date: June 4, 1993 Expiration Date June 3, 1994

n. 4 {A contract is "An agreement between two or more parties for doing or not, of something specified, an agreement enforceable by law"} Webster's College Dictionary p 295-296

n. 5 {A contract is "An agreement between two or more parties creating obligations that are enforceable or other wise reconcilable at law (a binding contract)"} ....."Black's Law Dictionary, 7d, p 318

n. 6 {Labor Organization," Means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, Group, Association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employees concerning grievances, labor disputes, wages, rate of pay, hours or other terms or conditions of employment".....} Black's Law Dictionary, 5d, p 786

Petitioner' complaint filed with the District Court as well as her EEOC complaint clearly shows, that a contract existed between the parties, the existent of the contract itself is a genuine issues and a material fact. In accordance with the Rules and Regulations Governing summary judgment, (n. 7) (n. 8) (n. 9) summary judgement was erroneous, thereby constitutes denial of due process.

n. 7 "A summary judgment should not be entered if there is a genuine issue on a material fact that should be tried before a Jury. " Delany v. Breeding's Homestead Drug Co., 93 So. 2d 116. Fla. App. 1957

n. 8 "Summary Judgment should be granted only if there is no genuine issue as to any Material facts. If the record presents factual issues, the court Must not decide; it must deny the motion and proceed to trial" *"Clemons v. Dougherty County, Ga., 684 F.2d 1365,1369 (11th Cir. 1982)*

n. 9 "Summary judgment will not be upheld where there exist genuine issue of material fact. Correia v. Seabord Coast Line R. Co., 393 So. 2d 1161. Fla. App. 1981

The Trial Court failed to take under-consideration, defendants never or very rarely admit to discrimination, most often, would deny, disguise, or use any means necessary to conceal their discriminatory actions. (Referenced in n. 2) other than the exceptionally cases of being caught on tape, and most often, that would be denied.

n. 2. cert. denied, 510 U.S. 1164, 114 S.Ct. 1189, 127 L.Ed. 2d 539 (1994); DeMarco v. Holy Cross High Sch., 4 F. 3d 166, 170 (2d Cir. 1993).

The Petitioner has depositions, the sworn testimonies of the defendants admitting to discriminatory acts, which was "over looked" or never "review" in its entirety by the Trial Court.

(3). The evidence shows that EG&G had "knowledge" of the existing contract, and failed to exercise reasonable care, to ensure that Sherikon upheld the provisions within the contract. EG&G was obligated as the prime contractor and as the contractor in authority.

The findings of facts has shown through the deposition of Defendant, Raoul Barker, (n. 10) which was in the courts record prior to summary judgment. He "acknowledges" that all three Defendants had "knowledge" of the contract, and all three defendants "participated" in the negotiations of the contract. (See appendix B) for entry date of Barker' deposition (See App. B Doc. re: 86-1]) date of entry 12/9/98.

n. 10 ["Well, the first thing we did was to - EG&G arranged for us to meet with the union representatives."]

"Then, we met with the EG&G, again, since we - The contract hadn't been awarded yet, we met with EG&G management and Human relations, together With the two primary supervisors that EG&G had over the two big areas we were taking over. We did meet with them together."]

(4). The evidence shows through the deposition of Defendant, Raoul Barker (n. 11) during negotiations, and prior to the awarding of the subcontract, Sherikon gave the IAM Union a "letter agreeing to accept the collective bargaining agreement in its entirety." (Emphasis added)

The letter (n. 11) (See App. I Barker Dep.) Becomes an agreement to the existing contract, which binds and obligates Sherikon to the existing contract.

n. 11 {"And prior to this it was only a meeting with Mr. Kendrick and the other unions and giving them a letter stating that I would honor the collective bargaining agreements they had with EG&G until we could negotiate our own."} * Andrew v. Louisville and Nashville R. R .Co. {406 U.S. 320 (1972).

(5). The evidence shows that EG&G not only failed to exercise reasonable care to ensure that Sherikon complied with the existing contract.

But EG&G "intentionally" induce Sherikon not to hire Morice and other former employees, (n. 12) the depositions of Defendant, Raoul Barker proves that EG&G' supervisor John Muzzy' actions were discriminatory. Muzzy, conscience of his actions, asked Defendant Sherikon to destroyed the evidence so it could not be traced back to him at a later date. Gilmer v. Interstate /Johnson Lane Corp. 500 U.S. 20, 24 (1991).

n 12 {" Well, we went over the crew list that I had which showed where people were by location. I think this may have been during the interview, I finally got him to do that much, and just asked him to point out anybody that I definitely should not hire. And as I remember, he put xs by 3 names."}

(6). The conduct of the EG&G' supervisor was a discriminatory act sufficiently serious enough to alter the outcome and constitute a breach of contract. Restatement section 219(1)(2) (d) provides that "a master is subject to liability for the torts of his servants committed while acting in the scope of theirs employment."

Defendant, (Raoul Barker) admitted to a discriminatory act (Referenced in n.12,) by asking EG&G to point out employees whom he should not hire. In Violation of laws, governing fair employment.

(n. 12) {" Well, we went over the crew list that I had which showed where people were by location. I think this may have been during the interview, I finally got him to do that much, and just asked him to point out anybody that I definitely should not hire. And as I remember, he put Xs by 3 names."}

(7). Through the deposition of Defendant, Johnny Walker, the Vice President of IAM Union, (n.13) testified of the discriminatory actions of an out of control, overly zealous EG&G supervisor, Who willfully and knowingly lied. Muzzy actions were vicious, slanderous, victimizing, deceitful, harmful, And derogative concerning Morice' job performance, a supervisor who never supervised or managed Morice. John Muzzy' lies has massacred Morice' reputation and has prevented her from finding work at the Space Center wherein she was accustom too.

n. 13 Johnny Walker' (IAM Union' vice -President) Deposition taken October 1,1998, P. 6 L 17-25 p. 7 L 1-7, 16-21

"I went and approached I don't remember what manager or supervisor -- there was a lot of them in there at that time. I don't remember which one I had talked to, but I did talk to one of them about it."

{" It was basically her job performance is what they said, her Job performance."}

{" They were picking people as they wanted and they rated it on Job performance. I could put it a different way how it was put, but I'd rather not do that."}

Morice was then a forth six year old black female, an exemplary employee, who became the prey of a medical crisis and was discriminated against, because of it.

The union refused to "seek" review of the lies told by Muzzy and refused to arbitrate the dispute, in conflict with the union contract and with The National Labor Relations

Act. The Union refused to hear any rebuttal from Morice regarding the lies, told by Muzzy.

Morice was abandoned, isolated and ostracized by the Union. The union neglected its duty to fairly represent Morice, in conflict with the laws governing FCRA claims. Morice asked "Walker" to file a grievance on her behalves, in accordance with the union contract. The union breached the contract by refusing to arbitrate the dispute, basing its decision on the strength of a lie.

Discriminatory conduct sufficiently serious enough to alter the outcome constitutes a beach of contract. (n. 14) (n.15) In accordance with the labor relation act the union was obligated to represent Morice. Puchert v. Agsalud, 67 Haw 31,677 P.2d 455.

n. 14 {"Labor Relations 219 "The duty of fair representation is a statutory duty implied from grant to union of exclusive power to represent all employees of the collective bargaining unit".} National Labor Relations Act, section 9(a) as amended 29 U.S.C.A. section 159 (a)} Sloan v. Sax 505 So. 2d 526,527-28 (Fla. 3d DCA 1987)

n. 15 Labor Relations key 759 "Since a union can be sued for breach of duty of fair representation if it fails to process a grievance, there is no apparent reason why it cannot also be sued if it fails to advise the employees to file a grievance. National Labor Relations Act. Section 9(a) as amended 29 U.S.C.A. section 159(a).

(8). The Deposition of defendant, Raoul Barker (n. 16) shows a motive, behind the defendants actions greed, for the love of money, for award fees and incentives.

n. 16 Raoul Barker Deposition taken October 13, 1998. (Defendant Sherikon) P. 19 L 3-19

A. Yes, because I have incentives. In that particular contract, we had incentives on performance, that if your performance was rated such-and-such or--you get a grade, if you will, that depends on how much of -- what's called an award fee.

NASA awards bonuses and or contract fees for the overall job performance of contractors. Therefore, the Defendants in their efforts or attempts to prevent and eliminate pretentious problems, knowingly committed discriminatory acts. The Defendants made an assumption that employees' who had taken a medical leave of absents would hinder the overall job performance of the contract. In Violation of Title I of the American with Disabilities Act of 1990, as amended,

(9). The evidence shows that Sherikon was induced by supervisor Muzzy, not to hire employee, who had taken a medical leave of absents, Sherikon a newly awarded sub-contractor, was without Knowledge" of the medical history of any former EG&G' employee. It was not a coincident, that every employee who was out on medical leave was not hired. (See App. J) a list of employees who were out on a medical leave of absents, and not hired by Sherikon.

The findings of facts through the deposition of Dublin, (n. 17) shows that the Defendants had "knowledge" of any and all medical leaves, of absents.

n. 17 Jessie Dublin' Deposition taken October 1, 1998, (Defendant EG&G) P. 9,10

A. I think it was in a supervisor meeting or something. We have meetings like once a week and if there's a problem With a certain section or an employee it's brought up in case That section needs some support. As far as someone says that Pearl's out or Jesse's out or James is out and conversation with other employees.

In May 1993 after a dental appointment Morice Suffered a severe allergic reaction from dental Medication, complications from the medications required that Morice be hospitalized, therefore, Morice had to take a medical leave of absence. This was the first and only leave of absence taken by Morice. July 1993, the Petitioner' was released form the Doctor' care and returned to work capable to perform and

resume her job duties, with no restriction. Prior to the required medical leave of absents, Morice received prefect attendance awards

10). The findings of facts shows, though the depositions of Dublin, (See App. K) Browning, (See App. L) and Lucas (See App. M) former supervisors and the manager of Morice never spoke with Sherikon regarding Morice' job performance.

n. 18. Jessie Dublin' Deposition taken October 1, 1998, (Defendant EG&G) P. 9,10

Q. Did anyone from Sherikon talk to you about Ms Morice's job performance?

A. No

n. 19. Ed Browning' Deposition taken October 2, 1998, Defendant EG&G p. 16 L 12-15

Q. Do you recall writing anything at the request of anyone at Sherikon about Ms. Morice's Performance while you were supervising her at EG&G?

A. I did not.

n. 20 James Lucas (EG&G' Manager) Deposition taken October 2, 1998, Defendant EG&G.

Q. Did you communicate either verbally or in writing to anyone at Sherikon about Ms. Morice's job performance as an EG&G Logistics Coordinator?

A. No, ma'am.

(11). The Trial Court Record reveals factual evidence though Morice' EEOC complaint and the complaint filed with the Trial Court prior to summary judgment. There were thirteen female logistic coordinators, all white female logistic coordinators were hired by Sherikon, The defendants claimed, employees were hired by skills and ability rather than by seniority. The findings of facts have shown that Morice was the "only" logistic coordinator cross-trained and capable of working in six of the seven logistic positions.

The only department Morice had not crossed trained in, was the transportation department. This act is in Violation of Section 1981a ("Title VII"), section 760.10 et seq. Stat. (1994). This was clearly a discriminatory act of "race" by EG&G' supervisor. Neither of the white females hired by Sherikon was trained to work in more than two logistic positions.

(12). The Trial Court Record reveals findings of facts, that male employees with lesser seniority or qualifications, or skills qualified to work in only one position were hired by Sherikon, clearly a discriminatory act by "sex".

(13). Denial' by the Trial Court to amend the complaint. Punished Morice, Attorneys are not parties of the complaint. Failure to certify a motion would warrant Sanction in lieu of denial, for failing to comply with rule 3.01(g) (Doc. 41) there are professorial standards for attorney miss-conduct. The Trial Court was erroneous, and bias in favor of the Defendants.

Although Morice' former attorney stated in her response that she conferred with the defendants attorneys, however, she mistakenly didn't show the certification in the motion. (n. 21).

n. 21 {Pleading 229} "Amendments to pleadings are to be Freely and liberally allowed in order that cases may be Resolved on their merits; doubts should be resolved in Favor of allowing amendment unless and until it appears that privilege to amend will be abused"}

The Trial Courts denial to amend conflicts with law's governing amended complaints, (n. 22) thereby, sets the desired avenue for summary and finial judgment. 31 West's F.S.A. Rules of Civil Procedure, rule 1.510(c) Snyder v. Cheeaem Development Corp. 373 So. 2d 719. Fla. App. 1979.

n. 22 "{Pleading 236(1)} If plaintiff files motion to amend complaint for which summary judgment is warranted. Trial court in the exercise of discretion, must determine whether facts appearing in record at time of summary judgment reasonably indicate, that plaintiff can raise a justifiable issue through amended complaint. And if trial court concludes that plaintiff can state bona fide cause of action, it must grant motion, for to do other-wise Constitute an abuse of discretion.}"

The Trial Court refusal to exercise jurisdiction over a "union claim", constitutes denial of due process in a District Court. In conflict with laws governing FCRA claims.

Petitioner filed a complaint jointly against all three Defendants in a District Court. The IAM Union is the common denominator of the complaint. Morice was a due's paying member of the union, and there is definitely a dispute arising from the contract change.

The Trial Court erroneously granted, a self- serving motion from IAM, requesting this Court declined exercising jurisdiction over FCRA claim, notwithstanding, the facts and evidence clearly proved the Union was obligated (Referenced in n. 3). And (n. 24, 25, 26, and 27) to represent all of its members during a contract dispute. Morice was abandoned and ostracized by the Union.

n. 3. COLLECTIVE BARGAINING AGREEMENT OF JUNE 4, 1993 BETWEEN BG&G FLORIDA, INC. AND INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS AFL-CIO Kennedy Space Center, Florida Effective Date: June 4, 1993 Expiration Date June 3, 1994

n. 24 {"Labor Relations 289 The National Labor Relations Act is an act of Congress regulating commerce, and Hence action for union's breach of duty of fair representation is one " arising under" such a statute within Meaning of statute conferring jurisdiction upon District Court."} National Labor Relations Act, section 9(a) as Amended 29 U.S.C.A. section 159(a) 28 U.S.C.A. Section 1337.} Sanchez v. Standard Brands, Inc., 431 F.2d 455,466 (5th cir. 1970). Mumford v. Glover 503 F2d 878-882,883 (1974) Retana v. Apartment, Motel, Hotel & Elevator operators Local 14, 453 F. 2d 1018 1022 (CA9 1972.

n. 25 {"Labor Relations 219.221} Duty of fair representation extends to union's conduct in negotiating collective bargaining agreements as well as in pursuing grievances on behalf of individual employees}."

n. 26 {"The obligation of a contract is defined as the law or duty which binds the parties to perform their agreements."} Home Bldg. & Loan Ass'n. v. Blaisdell, 290 U.S. 398,429,54 S. Ct. 231, 79Led. 413,424. 88 A.L.R. 1490(1934).

n. 27 {"Labor Relations 219 "The duty of fair representation is a statutory duty implied from grant to union of exclusive power to represent all employees of the collective bargaining unit".} National Labor Relations Act, section 9(a) as amended 29 U.S.C.A. section 159 (a)} Sloan v. Sax 505 So. 2d 526,527-28 (Fla. 3d DCA 1987)

The union being conscience of their wrongful actions, by not representing Morice. On December 1, 1993 IAM Union mailed Morice a refund check in the amount of $25.11 for dues paid in October 1993 in lieu of the 6 weeks severance pay of which she was entitled to in accordance with union policy for members who were layoff. (See severance pay schedule Appendix H).

The Trial Court over extended its authority, by dismissing a case no longer under its jurisdiction, constitutes denial of due process of a jury Trial.

On April 15, 1999 Morice was notified by the Trial Court, of the Trial judge' heavy caseload, her caseload would prevent her from hearing the case. Morice was given two choices, she could have the case presided over by the Trial Judge' Administrative Law judge, who appeared to be bias, or a visiting Trial Judge would preside over the case, Morice chose the visiting Trial Judge.

On April 19, 1999 Petitioner' case was set for a five Day Trial in Sam Gibbons United States Courthouse, in Tampa Fl. before The Honorable Thomas A. Wiseman Jr. Commencing on May 3,1999.

This is a case politically motivated, with very over zealous, competent, cognizant, shrewd and astute Defendants attorneys', Morice believed she would have been, on more of a level field, with a judge who was not politically motivated with ties to KSC. Notwithstanding, the case was no longer under the Trial Court' jurisdiction, the Trial Court ruled, by the long arm of the law. On April 27, 1999 eight days preceding the trial, Judgment was entered in favor of the Defendants.

n. 28 "On summary judgment the trial court is not Authorized to try or weigh facts, but rather the objective to be accomplished is to determine the existence of a Material factual issue, and if such an issue is present, the motion should be denied." 30 F.S.A. Rule of Civil Procedure. Rule 1.36. Jones v. Stoutenburgh, 91 So, 2d 299. Fla. 1953. and Fla. 1957

n. 29 "It is only in the event of absence of an issue of fact that a summary judgment may be employed to end a Case without the intervention of a jury. 30 F.S.A. Common Law Rule 43 Wilson v. Bachrach, 65 So. 2d 546.

The Trial Court record clearly reveals indisputable findings of facts specifically the smoking Guns though depositions of the Defendants admitting to discriminatory acts. showing that all three defendants conducted discriminatory acts.

The Judgment of the Trial Court was against the weight of the evidence.

The Trial Court refused to "seek review" of the factual Findings or "acknowledge" the evidence in it s entirety The record revealed excluding the amended complaint, Affidavits, Exhibits, and a List of Witnesses to support Morice' claim, depositions of the Defendants admitting to discriminatory behavior. Segments from the union contract showing that a valid contract existed between Morice, EG&G, Sherikon and the Union, (See Appendix G). A union seniority list, Morice'

EEOC complaint, Interrogatories, answers to the Request to Produce, an EG&G' Executive Structure which echo's the sub-contractors'. And also other documents of factual findings. (See appendix B the trial court docket for entry of documents)

The Trial Court inflicts a wrongful disability upon Morice by refusing to "review" and "acknowledge" the evidence in its entirety. Morice has become a victim of the Court system,

Refusal of the Court of Appeals to hear Petitioner,' only permissible fact-finder adjudication As an "appeal," and as a "rehearing," deny due process to a Plaintiff Jeopardized with dismissal, and to the Plaintiff' only means for relief?

On June 28, 1999 Morice filed an Appellant Brief with the U.S. Court of Appeals' Record Excerpts were filed on July 22, 1999 and on August 11, 1999 Morice filed a Reply Brief.

By and through the appeal Morice was seeking relief, from the judgment of the Trial Courts'. Morice had hoped an appeals would permit her the opportunity to be heard and present the findings of facts of which was in the record of the Trial Court prior to summary and final judgment.

The appeal was Morice' only means of being heard, an appeal would be the only permissible fact-finding Adjudication for her, a means of presenting indisputable facts "over looked" or "never reviewed" and "not acknowledged" by the Trial Court.

However, the Court of Appeals as the Trial Court refused or failed to "seek review" of the evidence in the briefs presented by the Petitioner. Obviously basing its decision solely on the Trial Courts findings.

Petitioner is not an attorney, but she believed if she was not permitted to present the sole findings of fact. Then it wasn't an appeal. She is without knowledge to whether the briefs were view as similar to the Trial Court.

The Briefs,' contained overwhelming evidence of acknowledgments, of discrimination by the Defendants enough evidence admitting wrongful acts, to warrant a Jury Trial.

The Courts of Appeals also failed or refused to "seek review" of the evidence before the Court in the "Appellant Briefs". (n, 25)

n. 25 "When defendant moves for summary judgment neither trial court nor appellant court determines whether plaintiff can prove cause of action alleged:. The function of the court is solely to determine whether the appropriate record presented in support of summary judgment, conclusively shows that plaintiff cannot prove the claim alleged as a matter of law".{Appeal and Error key 863} judgment 186

The Court of Appeals refused to make factual findings and refused to hear argument of the evidence. The Appellant briefs "clearly" show that indisputable facts of issues exist. Clearly by and through the depositions of the Defendants, discriminatory acts were committed, First, a valid contract existed between Morice and all three Defendants,

Secondly, and all three Defendants had "knowledge" of the contract and "participated" in the negotiation of contract.

Third, the depositions of the Defendants admit to discriminatory acts.

Fourth, EG&G divided it Logistic Department of sixty-seven employees, between two sub-contractors (n. 26) of which Sherikon had 39 available positions for the 41 incumbents of

Receiving and Warehousing. EG&G retained 10 most senior employees and USAI had positions available for the other employees. Muzzy induced Sherikon not to hire (14) former employees, whom Sherikon had available positions for. (See appendix N)

n. 26 Raoul Barker Deposition taken October 13, 1998, (Defendant Sherikon) P. 19 L 3-19

A. Janitorial services and transportation and packing and crating were all provided by a minority company called USAI. The Post Office or mail room, however you want to call it, wasn't a U.S. Post Office, but it was manned by a subcontractor under EG&G. It was a company called ATS. Gosh! They had other subcontracts. Those were the ones we primarily interfaced with and I can't think of the other ones. There were several other contractors.

Q. Sherikon being one of several?

A. Yes. USAI and Sherikon were the two minority companies, I think. There was a female-owned company that supported them.I can't remember the name of it, but that would qualify under small business plans. There were quite a few small businesses under them. I just can't remember the names.

Fifth, The Court of Appeals failed to seek review of the evidence before the Court. EG&G was in powered with complete control of the contract negotiations (n. 27) EG&G was obligated to ensure that the sub-contractor complied with the existing contract. Sherikon was one of several sub-contractors bidding for the sub-contract.

n. 27 Raoul Barker Deposition taken October 13, 1998, (Defendant Sherikon) P. 17 L 3-7

A. So it was all a negotiation during that whole period, if you Will Sort of one-sided, because they had all the hammers and all we could do was say, "Yes," basically, but it was a good relationship We worked well together.

Sherikon, was a small business contractor, who would have complied with what ever EG&G proposed in order to win the sub-contract.

Sixth, Sherikon was induced by Muzzy who had "knowledge" of former employees who were out on medical leave of absents, therefore, Sherikon refused to hire any employee who had taken a medical leave of absents (Referenced in Appendix N) Sherikon claimed to have hired and employee with diabetic (n. 28). However, Mr. Hall was not a former EG&G' employee and he had not taken a medical leave of absents.

n. 28 Raoul Barker Deposition taken October 13, 1998, (Defendant Sherikon) P. 17 L 3-7

Q. Did you interview him?
A. Yes.
Q. What type of voluntary disclosure did Mr. Hall make as to medical condition?
A. He mentioned he was a diabetic.
Q. He was ultimately hired by you?
A. I hired him as a program manager.

The Court of Appeals agreed to the Disciplinary Rule Fed. R. App. P. 39 after refusing to hear evidence, of which it is the sole finder of facts, prohibits filing authentic claims, violating the right of due process under the Fourteenth Amendment, U.S. Constitution.

Morice is deeply saddened by the Court of Appeals affirmation of the Trial Courts Judgment, without sincerely seeking review of the factual findings and refusing to permit the Petitioner to be heard before making the decision.

n. 29 "Neither court is free to prevent either party from simultaneously pursuing claims in both courts". Atlantic Coast Line R. Co. v. Brotherhood of Locomotive Engineers. 398 US 281, 90 S ct 1739, 26 L ed

2d 234 Actions under 29 USCS & 185 for breach of a labor contract may be brought in either state of federal courts. William E. Arnold Co. v. Carpenters Dist. Council, 417 US 12, 94 S Ct 2069, 40 L Ed 2d 620.NLRB, App. 9-3 Union conduct which violates the act sec. 9-1 (f) (3) Union employees protected under 9-1 (g) (2)

Petitioner requested a rehearing in accordance With Rule 40 of Federal Rules of Appellate Procedure For a party appearing without counsel.

The Judgment of the Court of Appeals was against the weight of the evidence.

The findings of facts and evidence before both Courts the Trial Court and the Court of Appeal, shows the case to genuine, with factual findings. (Referenced in n. 1, and n. 2) The evidence is over-whelming and has been proven by and though the testimonies of the defendants. Has revealed relevancy, the judgment of the Trial Court, was against the facts and evidence before the court. Thereby, the judgment of the Court of Appeals is also against the weight of the evidence.

n. 1 "Sir Speedy, Inc. v. L& P Graphics, Inc., 957 F.2d 1033, 1038-39 (2d Cir. 1992) (quoting Simblest v. Maynard, 427 F. 2d 1, 4 (2d Cir, 1970).

n. 2 cert. denied, 510 U.S. 1164, 114 S.Ct. 1189, 127 L.Ed. 2d 539 (1994); DeMarco v. Holy Cross High Sch., 4 F. 3d 166, 170 (2d Cir. 1993).

Its apparent the courts has grown tired of discrimination cases, who believes that discrimination cases are a waste of the Courts time, although the evidence in this case clearly shows discrimination.

Morice did not cry wolf considering the findings of the facts and evidence, and the circumstances, the existence of a valid contract, (Referenced in n. 3, n. 4, n. 5 and n. 10) The factual findings though the depositions of the defendants "admitting" to unlawful behavior. The judgment Inflicts disability upon Morice by denial her of due process of a Jury Trial.

n. 3 {A contract is "An agreement between two or more parties for doing or not, of something specified, an agreement enforceable by law"} Webster's College Dictionary p 295-296

n. 4 {A contract is "An agreement between two or more parties creating obligations that are enforceable or other wise reconcilable at law (a binding contract)"} ….."Black's Law Dictionary, 7d, p 318

n. 5 {Labor Organization," Means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, Group, Association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employees concerning grievances, labor disputes, wages, rate of pay, hours or other terms or conditions of employment"…..} Black's Law Dictionary, 5d, p 786

n. 10 COLLECTIVE BARGAINING AGREEMENT OF JUNE 4, 1993 BETWEEN EG&G FLORIDA, INC. AND INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS AFL-CIO Kennedy Space Center, Florida Effective Date: June 4, 1993 Expiration Date June 3, 1994

The Plaintiff filed this action with the highest regard In the integrity of Justice, with a sincerity belief that She has suffered an injustice by all three Defendants, This court has jurisdiction of this case as a finial

The petitioner and others are victims of injustice, An Injustice, which caused the petitioner to suffer great Harm.

The wrongful, conclusions of facts before the Trial Court, and the Court of Appeals and their judgments of which are against the weight of the evidence. The Courts were bound by the facts and evidence presented to it. Petitioner was entitled to a duly contested evidentiary trial before a jury.

n. 30 A jurisdictioally sound evidentiary trial would surly refute the defendants claim of a non-discriminatory layoff.

n. 31 The Petitioner would request a change of venue.

n. 32 The judgment of the Trial Court and the Affirmation of the Court of Appeals warrantees justice only for the most powerful , the affluent and the ones whom are publicly and politically known. Which conflicts with the Constitution of the United States, which promises Liberty and Justice For ALL.

n. 33 Petitioner believes the judgment was against the weight of the evidence. Therefore, she must seek relief from the highest Court in the land the only Court that can make correction and reversal to erroneous judgments, the petitioner must stand for right and pursue justice.

Refusal of the Court of Appeals to hear Petitioner,' only permissible fact-finder adjudication As an "appeal," constitutes abandonment?

Morice was abandoned by both of the Courts. Courts are empowered, obligated to look beyond the smoke screen to fine the truth. {As did Soloman}

APPENDIX A
(U.S. district Court judgment)
Filed April 27, 1999

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

PEARL MORICE
Plaintiff

-v- Case No. 97-167-Civ-Orl-22B

EG&G FLORIDA, INC., ET AL.,

Defendants

JUDGMENT IN A CIVIL CASE

Decision by Court. This action came before the Court and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

Final judgment is entered in favor of Defendants, SHERIKON.EG&G and IAM. The Plaintiff, PEARL MORICE, shall recover nothing on her claims against the Defendants and Defendants shall recover cost.

Date: April 27, 1999 RICHARD D. SETTEN,CLERK

BY: _____
N. STEPHENS, DEPUTY CLERK

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

PEARL MORICE,

Plaintiff,

-vs- Case No. 97-167-Civ-Orl-22B

EG&G FLORIDA, INC., ET AL.,

Defendants.

ORDER

This cause comes before the Court for consideration of Defendant Sherikon, Inc.'s ("Sherikon") Motion for Summary Judgment (Doc. 86) and Plaintiff Pearl Morice's Response (Doc. 104). Plaintiff seeks compensatory and punitive damages and injunctive relief against Sherikon for alleged violations of Title I of the Americans With Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101 et seq., and Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e et seq.

I. Facts1

On July 11, 1988, EG&G Florida, Inc. ("EG&G") employed Plaintiff as a Logistic Coordinator. (Affidavit of Pearl Morice,1). Plaintiff performed work as part of EG&G' s Base Operations contract that it had with the National Aeronautics Space Administration ("NASA ") at the Kennedy Space Center. During her employment, Plaintiff worked in several different departments,

Most of the following facts are taken from this Court's Order dated March 12,1999. including Receiving, Warehousing and Cool Room, Computer Room, Computer Configuration, Work Order Kitting, and LSC Stores. Id, 2. Her most recent position was in the LSC Stores, where she

[r)eceived, stored and moved merchandise/supplies; took orders from customers; input orders into the computer; completed documents; called customers when orders were ready for pickup or if there was a problem with the order; performed heavy in-person interface with NASA and other customers; pulled issues and took orders from customers and contractors.

Id. From May 1993 until August 1993, Plaintiff was on medical leave from her job. Id, 5.

In early October 1993, EG&G subcontracted with Sherikon to perform certain logistic functions at the Kennedy Space Center beginning on November 1, 1993.2 (Doc.89 at 6). In particular, Sherikon's responsibilities included the receiving, distribution, and warehousing of the logistics portion of EG&G' s Base Operations Contract. Id at 78. Because Sherikon was assuming many of the logistics functions that were previously performed by EG&G, EG&G had to layoff all but 6 of its approximately 69 employees. (Doc. 44, Exh. 4; Joint Pretrial Statement (Doc. 118) at 9)

Prior to this transition, on June 4, 1993, EG&G and the International Association of Machinist and Aerospace Workers ("IAM") entered into a collective bargaining agreement, which discussec wages, hours, and other conditions of employment. Id, Exh. 2. Specifically, Article 7.3 provided:

Layoff
When the Company determines that a surplus is necessary within a specific job family, probationary employees in the occupational

classifications affected shall be the first to be surplused. If further surplusing is necessary within the job family, seniority shall prevail. Employees with the least seniority in the job family shall be the first to be surplused and last to be recalled. Employees so surplused shall continue to accumulate seniority for a period of one (1) year if they have less than one (1) year's seniority, and

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2 In 1993, EG&G's contract ended with NASA and it had to rebid. (Doc. 89 at 15-19). At first EG&G lost the bid, in part because it did not have an adequate small business plan. Id. Therefore EG&G subcontracted with Sherikon to provide the "small business" element of its new bid for the NASA Base Operations Contract. Id. EG&G was subsequently awarded the bid. Id. four (4) years if more than one (1) year's seniority .If the employee is not recalled from surplus within said period of time, he shall lose all seniority rights.

Id. In accordance with this agreement, EG&G offered continued employment to individuals who h(the most seniority. Id. , Exh. 4. Those individuals who were laid off remained on EG&G's recall list for 4 years. Unfortunately, no vacancies became available at EG&G during this period.

Due to the budgetary constraints of the Base Operations Contract, Sherikon was able to offer employment to only 39 of EG&G's employees. (Doc. 89 at 21-22). Before the company began interviewing for jobs, officials met with union representatives regarding the criteria that they were going to use in making hiring decisions. Id. at 29. Although it was IAM's understanding that Sherikon could select its own employees, IAM representatives nevertheless encouraged EG&G to hire based on seniority. (Doc. 95 at 11). Sherikon told IAM that it was going to make decisions based on skill and ability, but that it would honor other aspects of the collective bargaining agreement until Sherikon negotiated its own. (Doc. 89 at 32). For example, Sherikon stated that it would honor the negotiated labor

rates and vacation days, and would recognize seniority of EG&G's employees once they were hired. Id. at 32. However, it would not recognize seniority in hiring or recall rights from the time EG&G's employees were laid off. Id. at 33.

To select its employees, Sherikon interviewed approximately 70 applicants, including Plaintiff Id. at 39. Prior to the interviews, Sherikon received from EG&G the "crew lists," which listed the name of the employee, his work location and salary , and a detailed organizational chart. Id. at 36-33. In determining which employees to hire, Raoul Barker, the General Manager, stated that he considered:

> each applicant's work experience as a logistics coordinator, and particularly the location at which each applicant was then working as an EG&G employee; input from Sherikon representatives who had conducted face-to-face interviews with each applicant. ... the input of EG&G supervisory personnel who were being considered by Sherikon for employment and who had knowledge of the applicant's work experience; and Sherikon' s contractual obligation to ensure uninterrupted service to NASA and other operators at [the] Kennedy Space Center during the transition. ...[He] hired logistics coordinators based on their apparent skills and ability , looking for the best, most qualified workers.

Id., at 25-29,32,39-43,48-55,64-65,79. Regarding the input from EG&G's supervisory personnel, Barker asked John Muzzy, a manager, to rate the employees based on ability. Id at 48. As a result, Muzzy placed marks by three employees that he thought Barker should not hire and ranked the others accordingly. Id. at 52. Plaintiff was one of the remaining logistics coordinators that he recommended for hire. Id. James Lucas, another supervisor, reviewed the rankings, but stated that he would not differ more than one or two places. Id. at 53. Plaintiff and Patricia Manley interviewed for the position of"LCS-38," which was the last position that they had held at EG&G. Id. at 55. Sherikon could only hire one

person to fill the position. (Doc. 89 at 55-56). After reviewing the interview notes, rankings, and seniority , Barker decided to offer the position to Manley, who had been stationed at the "LCS-38" location longer than Plaintiff. Id. at 56; Pretrial Statement (Doc. 118) at 10.

Plaintiff received a letter on October 25, 1993, stating that Sherikon was unable to offer her a position. (Doc. 57, Exh. 7). She subsequently filed an action in this Court against EG&G, IAM, and Sherikon, generally alleging that she was discriminated against based on her gender, race and perceived disability when she was not hired by Sherikon in violation of the ADA and Title VII.3 In an Order dated March 12,1999, this Court entered summary judgment in favor of EG&G and IAM.

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3 Plaintiff's claims pursuant to § 760.10, Fla. Stat., were previously dismissed by the Court. (Doc. 28).

II. Summary Judgment Standard

Summary judgment is appropriate only when the Court is satisfied "that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law ." Fed. R. Civ. P. 56(c). In making this determination, the Court must view all of the evidence in a light most favorable to the non-moving party. Samples an Behalf of Samples v. Atlanta, 846 F.2d 1328,1330 (11th Cir. 1988). The moving party has the initial burden of establishing the absence of a genuine issue of fact. Celatex Carp. v. Catrett, 477 U.S. 317 (1986). Next, the "non-moving party ...bears the burden of coming forward with sufficient evidence of every element that he or she must prove." Rallins v. Techsauth, Inc., 833 F.2d 1525,1528 (11th Cir. 1987). To that end, the nonmoving party must" go beyond the pleadings and by her own affidavits, or by the' depositions,

answers to interrogatories, and admissions on file', designate' specific facts showing that there is a genuine issue for trial."' Celatex, 477 U.S. at 324.

III. Analysis

A. Title VII Claims

Sherikon initially argues that Plaintiff cannot bring claims based on gender or race discrimination under Title VII because she failed to exhaust her administrative remedies by not including these claims within the charge of discrimination filed with the Equal Employment Opportunity Commission ("EEOC"). A plaintiff s discrimination action in federal court is limited by the content of the EEOC charge. However, a plaintiff may seek judicial relief for additional claims raised in the civil complaint that are reasonably related to the allegations contained in the EEOC charge. This occurs when:

> The complaint encompasses any kind of discrimination like or related to allegations contained in the [EEOC] charge and growing out of such allegation during the pendency of the case before the Commission. In other words, the "scope" of the judicial complaint is limited to the "scope" of the EEOC investigation which can reasonably be expected to grow out of the charge of discrimination.

Sanchez v. Standard Brands, Inc., 431 F.2d 455,466 (5th Cir. 1970) (citation omitted).

On the actual charge of discrimination in this case, Plaintiff marked the box labeled ("disability ," and did not mark the boxes labeled "sex" or "race." (Doc 18, Exh. 1). However, in the affidavit submitted with the EEOC charge, Plaintiff states that she was discriminated against based on her race, sex, and perceived disability .4 Therefore, the

Court finds that the claims raised in the civ: complaint are reasonably related to the allegations contained in the EEOC charge.

Sherikon also argues that Plaintiff cannot establish that it discriminated against her based on her race or gender. The plaintiff in an employment discrimination case has the ultimate burden of proving that the ,defendant intentionally discriminated against her. Id. at 1375 (citing Texas Dept. Community Affairs v. Burdine, 450 U.S. 248,253 (1981)). The plaintiff can meet the burden by producing direct or circumstantial evidence of discrimination. Id. In the instant case, the evidence presented by Plaintiff is circumstantial.

In Trotter v. Board of Trustees of University of Alabama, 91 F.3d 1449 (llth Cir. 1996), the Court of Appeals for the Eleventh Circuit summarized the appropriate analysis applicable to employment discrimination cases based on circumstantial evidence.

4 In her affidavit, Plaintiff explains that the EEOC sent her a completed form and told her on to sign and date it. (Affidavit of Pearl Morice (Doc. 104), ~ 6). Along with the form, Plaintiff -attached a thirteen page document explaining the incidents of discrimination. Id. , 7.

...We evaluate Title VII claims supported by circumstantial evidence using the familiar framework set out by the United States Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792,93 S. Ct. 1817,36 L. Ed. 2d 668 (1973). Initially, the plaintiff has the burden of establishing a prima facie case of discrimination. Id. at 802, 93 S. Ct. at 1824. The plaintiffs prima facie case gives rise to a presumption of discrimination. St. Mary's Honor Center v. Hick, 509 U.S. 502, 506-07, 113 S. Ct. 2742,2747, 125 L. Ed. 2d 407 (1993); Turnes v. AmSouth Bank, N.A., 36 F.3d 1057, 1060 (11th Cir. 1994). If the plaintiff establishes a prima facie case, the defendant has a burden of producing a legitimate,

nondiscriminatory reason for the challenged action. This places upon the defendant merely an intermediate burden of production. Turnes, 36 F.3d at 1060. To satisfy this burden of production, the "defendant need not persuade the court that it was actually motivated by the proffered reasons. ...It is sufficient if the defendant's evidence raises a genuine issue of fact as to whether it discriminated against the plaintiff." Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248,254-55,101 S. Ct. 1089,1094-95,67 L. Ed. 2d 207 (1981). In other words, a defendant satisfies its intermediate burden of production if it produces "admissible evidence which would allow the trier of fact to conclude that the employment decision had not been motivated by discriminatory animus." Turnes, 36 F .3dat 1061-62 (quoting Burdine, 450 U.S. at 257 ,101 S. Ct. at 1095-96) (emphasis in Turnes). If a defendant succeeds in carrying its intermediate burden of production, the McDonnell Douglas framework, along with its presumption of discrimination, drops out of the case and the trier of fact proceeds to the ultimate issue of whether the plaintiff has proven that the defendant intentionally discriminated. Id. at 1061. On the other hand, " [w]here a plaintiff s prima facie case is established, but the employer fails to meet its burden of production, the unrebutted presumption of discrimination stands." Id.

{If the defendant satisfies its burden of production, the plaintiff has an opportunity to show by a preponderance of the evidence that the reasons offered by the defendant are a mere pretext for discrimination, and to persuade the fact finder that the defendant intentionally discriminated against the plaintiff. McDonnell Douglas, 411 U.S. at 804,93 S. Ct. at 1825. "The ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against the plaintiff remains at all times with the plaintiff." Burdine, 450 U.S. at 253, 101 S. Ct. at 1093-94. 91 F.3d at 1454-55.

In a failure-to-hire case, to establish a prima facie case of race or gender discrimination, the plaintiff must show: (1) that she was a member of the protected class; (2) that she applied and was qualified for the position for which the defendant was accepting applications; (3) that despite her qualifications, she was not hired; and (4) that the position either remained open or was filled by a person outside the protected class. Schoenfeld v. Babbitt, 168 F .3d 1257, 1267 (11 th Cir. 1999). Sherikon does not dispute that Plaintiff has established a prima facie case.

Instead, Sherikon argues that its failure to hire Plaintiff was based on legitimate, nondiscriminatory reasons. In his deposition, Barker explained that due to budgetary constraints, he could hire only a portion of EG&G's former employees. In making hiring decisions, Barker considered work experience, the last position the employee held at EG&G, input from Sherikon's interviewers, and the input ofEG&G supervisory personnel. (Doc. 89 at 25-29,32,39-43,48-55,64-65,79). In particular, Barker stated that "the primary thing was looking at where people were working and determining who was the better qualified at that particular location. " Id. at 5 0. In this regard, the following exchange occurred during the deposition:

Q. Did you offer positions to the applicants who in your judgment, were the best, most qualified for each position available?
A. I have to quibble here. The position is logistics coordinator. All of them were logistics coordinators. I would say, yes, based on the location in which they were working.
Q. Just so I understand your answer, then, were your decisions on who to hire based, at least in large part, on the locations at which they had been working?
A. Yes. Correct.
Q. Is that because you were concerned about continuing service under the contract?
A. Yes.
Q. Was it your understanding or belief that keeping people in the position that they were then working in while at EG&G would best enhance the

ability of Sherikon to continue the service?
A. Exactly. And that would be more transparent, because the customers would come and they would see the same people. They' d be wearing a different employee badge, but it would be the same person.

Id. at 64-65. Having concluded that only one logistics coordinator was required to continue the functions of LCS-38, Barker stated that he chose Manley for the position because she had been stationed at that location longer. Consequently, Sherikon has met its burden of demonstrating that its failure to hire Plaintiff was based on legitimate, nondiscriminatory reasons.

Although not clearly articulated, Plaintiff contends that Sherikon' s reasons for not hiring her are pretextual because: (1) Ed Browning, her direct supervisor, stated that Sherikon would not layoff two white males to hire Plaintiff; (2) Muzzy could not have objectively assessed her abilities because he never supervised her and never talked to her supervisors about her performance; (3) applicants with lesser skills and abilities were hired; and (4) applicants who were hired by Sherikon had responsibilities different from the ones they had at EG&G. As to the first argument, Plaintiff has submitted no evidence demonstrating that Browning influenced Sherikon' s hiring process, made recommendations concerning Plaintiff, or made the hiring decisions. In fact, Plaintiff states in her memorandum that Muzzy never spoke with Browning or Lucas before he ranked the candidates. Therefore, the evidence demonstrates that Browning's statement was based on speculation. Additionally, the Court' finds unpersuasive Plaintiffs assertion that the method Muzzy used for ranking the employees is evidence of pretext because both he and Lucas recommended that Plaintiff be hired.

Plaintiff also contends that she had broader skills and abilities than white or male employees who were hired by

Sherikon because she worked in a variety of positions at EG&G and had more seniority. Plaintiff identifies John Francis and Robert Barrows as white males who were not as qualified as Plaintiff because they had not worked at each of the LSC stores. However, as Barker explained in his deposition, in order to maintain continuity in service, the primary goal for hiring was consistency in the positions. Plaintiff does not present evidence that Francis and Barrows were hired to positions different from the ones that they held at EG&G .

In further support of her position, Plaintiff submits the affidavit of Linda Kimbrough who worked in the receiving and warehousing departments at EG&G. She states that Sherikon treated her less favorably due to her sex (female) and race (African American) because Sherikon hired white males with less seniority. (Doc.60). However, she fails to describe how many applicants were hired for positions in the warehousing and receiving departments at Sherikon and which of those employees had less seniority .Therefore, this affidavit does not rebut Sherikon' s stated reasons.

Finally, Plaintiff argues that she was discriminated against because she should have been considered for positions other than LCS-38 and claims that others were hired for positions that they had not held at EG&G. Plaintiff specifically names Linda Donahue as an employee who had lesser skills and who performed a different position at Sherikon. In Donahue's deposition, the following exchange occurred:

Q: As a Logistics Coordinator for EG&G what departments did you work in?
A: I worked starting from the beginning in delivery , receiving, warehousing and the service center. Rockwell.
Q: What positions did you work or what job functions did you do when you were employed by Sherikon as a Logistics Coordinator?

A: I worked in the service center. I worked at Rockwell Service Center. I worked at Patrick Air Force Base Service. I worked in Warehousing. Work order kidding (sic). That's it.
Q: When you worked at work order kidding (sic) at Sherikon was that the first time you had done work order kidding (sic)? .
A: Yes.

(Doc. 104, Exh. 7). This exchange demonstrates that Donahue was originally hired for the service(center and then later worked at work order kitting. Therefore, her original position at Sherikon was the same that she had at EG&G. Evidence of pretext does not exist by the fact that Donahue later had different job responsibilities.

Because Plaintiff is unable to demonstrate that the reasons offered by Sherikon for its failure to hire Plaintiff are a mere pretext for discrimination, summary judgment is due to be granted as to Plaintiffs Title VII claims.

B. ADA Claims

Sherikon asserts that Plaintiff cannot establish that Sherikon' s employees perceived her disabled or that Sherikon failed to hire her because of any perceived disability. To establish a prim: facie case under the ADA, Plaintiff must show that she has a disability, she is a qualified individual and she was discriminated against because of the disability .Pritchard v. Southern Company Serv. 92 F .3d 1130, 1.132 (11 th Cir.), amended on reh 'g in part, 102 F .3d 1118 (11 th Cir. 1996) and cerl denied, 520 U.S. 1274 (1997). "Disability" is defined as:

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such impairment; or (C) being regar.ded as having such an impairment~
42 U.S.C. § 12102(2).

The EEOC regulations define one who is "regarded as

having such an impairment" as an individual who "(1) has a physical or mental impairment that does not substantially limit major life activities but is treated by her employer as constituting such limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of other: toward such impairment; or (3) has no illness or malady defined by the EEOC as a physical or mental impairment but is treated by her employer as having a substantially limiting impairment." Gordon v. E.L. Hamm &Associates, Inc., 100 F.3d 907,912-13 (11 th Cir.1996) (citing 29 C.F.R. § 1630.2(1)), cert. denied, 118 S. Ct. 630 (1997).

In reviewing the evidence in the record in the light most favorable to Plaintiff, the Court concludes that the evidence is insufficient to support a finding that Sherikon regarded Plaintiff as having a physical impairment that substantially limited her ability to work. After Plaintiff returned from medical leave, she continued to perform the same work at EG&G that she had previously performed, and Plaintiffs supervisor continued to recognize her favorable job performance. (Doc. 97 at 63). Neither Muzzy nor Lucas referred to Plaintiff as disabled and both of them recommended Plaintiff for a position at Sherikon. Id. at 77. In addition, Barker testified that at the time he made his decision not to extend an offer of employment to Plaintiff, he was unaware of Plaintiffs health condition or medical history. (Doc. 89 at 57-58).

Plaintiff nevertheless argues that because her supervisors knew that she was out on medical leave, they perceived her to be disabled and conveyed that belief to Sherikon. Although Plaintiff states in her deposition that she has no proof that Muzzy told Sherikon's representative about her medical leave, she asserts that Sherikon had access to her file. Plaintiff explains that during her interview with

Sherikon, she attempted to give the representative a copy ofher pay record and resume, and he told that he did not need those documents because he had access to her file. (Affidavit of Pearl Morice, 13). However, Sherikon concedes that it received from EG&G the "crew lists," which listed the name of the employee, the employee's work location and salary, and a detailed organizational chart. Even if the interviewer had access to Plaintiff s entire file, the fact that she had been out on medical leave is not evidence that Sherikon perceived her to have a disability .

Plaintiff also argues that Sherikon perceived her to be disabled because EG&G and Sherikon separated the files of employees who had been on medical leave for over 30 days from those who had not. For support of her contention, Plaintiff submits the affidavit of her daughter, who heard Gloria Glenn, an employee in the Benefits office at EG&G, tell her and others about the process at a party. In particular, she states:

(Glenn] knew exactly what went on when EG&G subcontracted Logistics to Sherikon; she stated that It (sic) was wrong what EG&G and Sherikon did in deciding who Sherikon would hire; how anyone would not be hired by Sherikon if s/he had missed 30 or more days due to medical reasons; how she saw EG&G and Sherikon together in the Benefits office, where she worked, as they placed employees (sic) files in two stacks, one group for those employees who missed 30 days or more in 1993, and a separate stack of files for employees who had not. According the (sic) Ms. Glenn, only the latter group of employees had been picked-up by Sherikon.

(Doc. 111). Gl~nn denies making these statements in her deposition. (Doc. 104, Exh. 5). Because these statements are hearsay and do not fall within any exception, s the Court will not consider it as evidence in opposition to Sherikon' s motion for summary judgment. 6 Even assuming Plaintiff could establish a jury question as to whether she was perceived as disabled, she has failed. to demonstrate that

Sherikon discriminated against her because of hers

The statements do not fall within Rule 801 (d), Fed. R. Evid., which provides in relevant part, " A statement is not hearsay if. ..the statement is offered against a party and is. ..(D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship." Rule 801(d)(2)(D). The statements were made by EG&G's employee and therefore cannot be used against Sherikon.

6Rule 56(e), Fed. R. Civ. P ., states in relevant part: "Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence. ..." perceived disability. As the Court previously noted, Sherikon has demonstrated legitimate, nondiscriminatory reasons for the employment decision. Plaintiff argues that these reasons are a mere pretext for discrimination because employees who had been out of work on medical leave for more than thirty days had not been hired while others with less seniority were hired. In support of this contention, Plaintiff presents the affidavits of Moore, who worked in the receiving and warehousing departments at EG&G, and Kehoe, who worked in the warehousing department. (Docs.58-59). Both of them had missed work for thirty or more days in 1993. Id. They explain that only three employee under Browning's supervision were not hired by Sherikon, all of whom had missed thirty or more days due to medical reasons. Id. They claim, therefore, that they were discriminated against because employees with less experience and with no perceived disabilities were hired. Id. Plaintiff also presents the affidavit of Kimbrough, who states that she missed work for medical reasons in 1993 and was not hired by Sherikon although she was more senior than employees who were hired. (Doc. 60)

Even though Sherikon asserts that it wanted to hire

applicants to perform the same job functions that they had performed at EG&G, Plaintiff fails to submit any evidence showing how many) applicants were hired for positions in the warehousing and receiving departments and which of those employees had more seniority than Moore, Kehoe, and Kimbrough. Therefore, these affidavits do not demonstrate pretext.

Moreover, Sherikon presents evidence that it did not discriminate against employees who had medical conditions or disabilities. In his deposition, Barker, who is disabled, explained that he hired an applicant who has diabetes as the Program Manager. (Doc. 89 at 5,45).

Because Plaintiff had not met her burden of demonstrating that Sherikon perceived her as , having a disability or that Sherikon discriminated against her based on that perceived disability, summary judgment is due to be granted on her claims pursuant to the ADA.

IV. Conclusion

1. Sherikon's Motion for Summary Judgment (Doc. 86), filed December 9, 1999 is GRANTED.
2. The Clerk is directed to enter final judgment in favor of Sherikon providing that Plaintiff shall recover nothing on her claims and that Sherikon shall recover costs.
3. The Clerk is also directed to enter final judgment in favor of Defendants EG&G and IAM providing that Plaintiff shall recover nothing on her claims against them and that they shall recover costs.
4. All pending motions are DENIED as MOOT.
5. The Clerk is directed to close this case.

DONE and ORDERED in Orlando, Florida on April 27 1999.
ANNE C. CONWAY

UNITED STATES DISTRIC
Copies furnished to :
Counsel of Record
Unrepresented Parties
Administrative Law Clerk
Courtroom Deputy

APPENDIX B
(Trail Courts Transcript)

U.S. DISTRICT Court
Middle District of Florida (Orlando)
CIVIL DOCKET FOR CASE #97-CV-167

Morice v. EG&G FL. INC. et al Filed: o2/25/97
Assigned to: Judge Anne C. Conway Jury demand Plaintiff
Demand: $0,000 Nature of Suit: 442
Lead Docket: None Jurisdiction Federal Question
Dkt# in other court: none

Cause: Americans with Disabilities Act

PEARL MORICE Plaintiff
M. Annette Himmelbaum {COR LD NTC}
Law Office of M. Annette Himmelbaum 6770 Indian Creek
Dr. No. 9E Miami Beach, Fl. 33141

Pearl Morice {COR LD NTC} {PRO SE}
3812 stonemount Drive
Cocoa, Fl. 32926

v.

EG&G FLORIDA, INC. defendant Allen J. McKenna {term 03/15/99}{COR LD NTC} John M. Finnigan {term

03/15/99}{COR LD NTC} Ford & Harrison LLP 815 N. Garland St. P.O. Box 60 Orlando, FL. 32802- 0060 USA 407/418-2300

SHERIKON, INCORPORATED
Anthony J. Carriuolo Defendant {COR LD NTC} Eckert, Seamans, Cherin & Mellot 450 E. Las Olas Blvd. Las Olas Centre, Suite 800 Ft. Lauderdale, Fl. 33301 USA 954/523-0400

Alan David Danz {COR LD NTC} Kronengold & Danz 1040 Weston Rd., Suite 305 West Palm Beach, Fl 33401 407/655-5840

INTERNATION ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS
Mary Jill Hanson {COR LD NTC} Hanson, Perry & Jensen 105 S. Narcissus Ave. Suite 510 West Palm Beach, Fl. 33401 407/655-5840 USA

Anita M. Cream Interested Party {COR LD NTC{
U.S. Attorney's Office Middle District of Florida
201 U.S. Courthouse 80 N. Hughey Ave.
Orlando, FL 32801 USA 407/655-5840

2/25/97 1 COMPLAINT field pursuant to Title VII for employment discrimination on the basis of perceived disability, race and sex. JURY DEMAND (maa) {Edit date 02/25/97}

2/25/97 – MAGISTRATE JUDGE CASE ASSIGMENT magistrate assigned: David A. Baker (maa)

2/25/97 – FILING FEE PAID. (Filing fee $150.00 Receipt # 64499)

2/25/97 2 ORDER directing counsel to review and certify compliance with Local Rule 1.04 (c) within 10 days. (signed by Judge Anne C. Conway) ctc (maa)

3/10/97 3 CERTIFICATE OF COMPLIANCE by Pearl Morice with {2-1} order--no related cases (jrm) {Entry date 03/11/97}

3/17/97 4 NOTICE of attorney appearance for IAM by Jill Hanson. (maa)

4/19/97 5 NOTICE of designation under Local Rule 3.05--Track 2. (ctc) (maa) {Entry date 04/10/97}

4/9/97 6 CERTIFICATE OF SERVICE of {5-1} Track 2 notice by Pearl Morice. (maa) {Entry date 04/10/97}

4/9/97 7 WAVIER OF SERVICE Returned Executed as to EG&G FL. Inc. 3/5/97: Answer due on 5/5/97 for EG&G FL, Inc. (maa) {Entry date 04/10/97}

4/9/97 8 WAVIER OF SERVICE Returned Executed as to IAM 3/5/97: Answer due on 5/5/97 for IAM . (mma) {Entry date 04/10/97}

4/9/97 9 WAVIER OF SERVICE Returned Executed as to Sherikon, Inc. 3/5/97: Answer due on 5/5/97 for Sherikon, Inc. (MAA) {Entry date 04/10/97}

5/6/97 10 MOTION by defendant EG&G FL, Inc. with memorandum in support to dismiss complaint, for summary judgment (jrm) {Entry date 05/07/97}.

5/6/97 11 AMENDED CERTIFICATE OF SERVICE of {10-2} motion for dismiss complaint {10-2} motion for summary judgment upon defendants

Sherikon and International Association of Machinists by defendant EG&G FL, Inc. (jrm) {Entry date 05/08/97}

5/7/97 12 MOTION by IAM to dismiss complaint (maa) {Entry date 05/08/97}

5/7/97 13 MEMORANDUM by IAM in support of {12-1} motion to dismiss complaint maa) {Entry date 05/08/97}

5/7/97 14 ANSWER AND AFFIRMATIVE DEFENSES to complaint by Sherikon Inc. (maa) {Entry date 05/08/97}

5/12/97 15 AMENDED CERTIFICATE OF SERVICE of {12-1} motion to dismiss complaint. (map) {Entry date 05/13/97

5/22/97 16 MEMORANDUM by Pearl Morice in opposition to {12-1} motion to dismiss complaint (map) {Entry date 5/23/97}

5/22/97 17 AFFIDAVIT by Pearl Morice Re: {16-1} opposition memorandum (map) [Entry date 05/23/97}

5/22/97 18 MEMORANDUM by Pearl Morice in opposition to {10-1} motion for summary judgment (map) {Entry date 5/23 /97}

5/22/97 19 AFFIDAVIT of/by Pearl Morice Re: {18-1} opposition memorandum (map) [Entry date 05/23/97}

5/28/97 20 MOTION by EG&G FL. Inc. for leave of court to attend case management meeting by telephone. (map)

6/2/97 21 ORDER denying {20-1} motion for leave of court to attend case management meeting by telephone. (signed by Judge Anne C. Conway) ctc (map)

6/16/97 22 CASE MANAGEMENT REPORT. (map) {Entry date 06/17/97}

6/26/97 23 ORDER within 11 days all non-government corporate parties shall file a statement identifying all parent companies, subsidiaries (except wholly-owned subsidiaries) and affiliates that have issued shares to the public. (signed by Judge Ann C Conway) ctc (jrm) summary final judgment against Plaintiff complaint. Transcript filed separately. (nrs)

6/26/97 24 SCHEDULDING ORDER setting joining of parties, amending of pleadings on 05/1/98; Deadline for filing disposition motion 12/16/98; Discovery cutoff 10/16/98; Pre-trail statement due on or before 3/30/99; Jury trial set for 5/3/99 Scheduled fo Judge Ann C. Conway (signed by Judge Annie C. Conway ctc (jrm)

7/7/97 25 RESPONSE by EG&G FL, Inc. to {23-1} order. (map) {Entry date 07/08/97

7/7/97 26 RESPONSE by Sherikon Inc. to {23-1} order. (map) {Entry date 07/08/97

7/9/97 27 RESPONSE by IAM to {23-1} order. (map)

9/23/97 28 ORDER granting in part, denying in part {12-1} motion to dismiss complaint; denying {10-1} motion to dismiss complaint and {10-2} motion for summary judgment. (signed by Judge Anne C. Conway) ctc (map) {Entry date 09/24/97}

10/7/97 29 ANSWER AND AFFIRMATIVE DEFENSES to complaint by EG&G FL, Inc. (map)

10/10/97 30 MOTION by IAM to extend time to answer or otherwise plead referred to Magistrate Judge David A. Baker (map)

10/14/97 31 ENDORSED ORDER granting {30-1} motion to extend time to answer or otherwise plead; answer due for 10/24/97 for IAM. (Signed by Magistrate Judge David A. Baker ctc (map) {Entry date 10/22/97}

10/27/97 32 ANSWER AND AFFIRMATIVE DEFENSES to complaint by IAM (map)

11/13/97 33 RESPONSE by Pearl Morice to {31-1} motion for protection order. (map)

11/18/97 35 ORDER having reviewed plaintiff's (late) response to the motion for protection order plaintiff the court adheres to the previous ruling as plaintiff has not shown adequate grounds for entry on real property based on the issues. (signed by Magistrate Judge David A. Barker) ctc (map)

12/22/97 36 NOTICE of new case number 97-167-Civ-Orl-22B

2/19/97 37 NOTICE of unavailability by counsel for Sherikon, Inc. (map)

4/13/98 38 EXPECT WITNESS LIST by EG&G, FL. Inc. (map)

5/1/98 39 MOTION by Pearl Morice to amend [1-1] complaint, (map) {Entry date 05/04/98}.

5/1/98 40 MEMORANDUM by Pearl Morice in support of {39-1}

5/12/98 41 ORDER denying {39-1} motion to amend amend {1-1} complaint for failure to comply with local Rule 3.01 (g). (signed by Judge Anne C. Conway) ctc (map)

5/18/98 42 MOTION by IAM to extend time to response to amended complaint referred to Magistrate Judge David A. Baker (map) {Edit date 06/02/98}

5/19/98 43 ORDER granting { 42-1} motion to extend time to answer amended complaint referred to Magistrate Judge David A. Baker) ctc (map)

5/20/98 44 MOTION by EG &G FL. Inc. with Memorandum in support for summary judgment, statement of uncontested material facts. (map) {Entry date 05/21/98}

5/26/98 45 MOTION by Pearl Morice for reconsideration of {41-1} order (eah)

6/2/98 47 MEMORANDUM by EG&G FL. Inc. in opposition to {45-1} motion for reconsideration of {41-1} order (map) {Entry date 6/3 /98}

6/9/98 48 RESPONSE by Sherikon, Inc. to {45-1} motion for reconsideration of {41-1} order and memorandum in opposition to {39-1} motion to amend {1-1} complaint, (map) {Entry date 6/10 /98}

6/11/98 49 MOTION by IAM to dismiss or for summary judgment (map)

6/11/98 50 MEMORANDUM by IAM in support of

{49-1} motion to dismiss {49-2} motion for summary judgment (map)

6/11/98 51 STATEMENT OF MATERIAL FACTS NOT IN DUSPUTE by IAM in support of {49-1} motion to dismiss, {49-2} motion for summary judgment. (map)

6/17/98 52 NOTICE of filing Affidavit of F.R. Kendrick in support of motion to dismiss or for judgment by IAM. (map) {Entry date 06/18/98}

6/17/98 53 AFFIDAVIT of F. R. Kendrick by IAM Re; {49-1} motion to dismiss, {49-2} motion for summary judgment (map) {Entry date 06/18/98}

6/17/98 54 RESPONSE by IAM to {45-1 motion for reconsideration of {41-1} order. (map) {Entry date 06/18/98}

6/18/98 -- ENDORSED ORDER granting {47--1} motion to extend time to respond to Defendant's motion for summary Judgment ; Response to motion reset to 6/18/98 for {44-1} motion for summary judgment, statement of uncontested material facts (signed by Magistrate Judge David A. Baker ctc (map)

6/19/98 55 RESPONSE by Pearl Morice in opposition to {44-1} for summary judgment, statement of uncontested material facts. (maa)

6/24/98 56 MOTION by EG&G FL. Inc. to strike untimely file {55-1} opposition response. (maa) {Entry date 06/25/98}

6/25/98 57 NOTICE of filing Affidavit of in support of opposition to EG&G FL. Inc. motion for summary judgment by Pearl Morice (maa) {Entry date 06/26/98}

{Edit date 06/26/98}

6/25/98 58 AFFIDAVIT of William Kehoe by Pearl Morice Re; {55-1} opposition response. (maa){Entry date 06/26/98}

6/25/98 59 AFFIDAVIT of Leroy Moore by Pearl Morice Re; {55-1} opposition response (maa) {Entry date 06/26/98}

6/25/98 60 AFFIDAVIT of Linda Kimbrough by Pearl Morice Re; {55-1} opposition response. (maa) {Entry date 06/26/98}

6/25/98 61 MOTION by Pearl Morice for leave to file Second Amecded Complaint. (maa) {Entry date 06/26/98

6/25/98 62 MEMORANDUM by Pearl Morice in support of {61-1} motion to leave to file Second Amended Complaint. (maa) {Entry date 06/26/98}

6/29/98 63 MOTION by Pearl Morice to extend time to 7/15/98 to respond to IAM's Second motion to dismiss or for summary judgment referred to Magistrate Judge David A. Baker. (maa)

6/29/98 64 MEMORANDUM by Pearl Morice in opposition to {56-1} motion to strike untimely file {55-1} opposition response. (maa)

7/6/98 65 MEMORANDUM by IAM in opposition to {61-1} motion to leave to file Second Amended Complaint. (maa) {Entry date 07/07/98}

7/6/98 66 MEMORANDUM by IAM in opposition

to {61-1} motion to leave to file Second Amended Complaint. (maa) {Entry date 07/07/98}

7/8/98 67 RESPONSE by Sherikon, Inc. in opposition to {61-1} motion to leave to file Second Amended Complaint. (maa)

7/8/98 68 NOTICE of filing Excerts of Deposition Transcript of Plaintiff in support of its motion for summary judgment by EG&G FL. Inc. (maa)

7/13/98 69 MEMORANDUM by EG&G FL. Inc. in opposition to {61-1} motion to leave to file Second Amended Complaint. (maa)

7/15/98 -- ENDORSED ORDER granting {63-1} motion to extend time to 7/15/98 to respond to IAM's motion to dismiss or for summary judgment : Response to motion reset to 7/15/98 for {49-1} motion to dismiss or for summary judgment. (signed by Judge Anne C. Conway) ctc (maa)

7/16/98 70 MOTION by Pearl Morice in opposition to {49-2} for summary judgment. (maa)

7/20/98 71 ORDER referring case to mediation the parties shall stipulate from the list of approved federal court mediators to a mediator to serve as the Court's Mediator in the instant action. This stipulation shall be filed with the Court within 11 days from the date of this Order. If no such stipulate is filed, the court will appoint a mediator from the list of approved federal court mediators. Conduct hearing by 11/16/98. (signed by Judge Anne C. Conway) Lead counsel to coordinate dates. ctc (hsh)

7/28/98 72 STIPULATION OF SELECTED

MEDIATOR by defendant EG&G FL. Inc. defendant Sherikon, Inc. defendant IAM (maa){Entry date 07/29/98}

8/4/98 73 SUPPLEMENTAL FILING by EG&G FL. Inc. in support {72-1} stipulation (nbl)

8/10/98 74 ORDER denying {45-1} motion for reconsideration of {41-1} order; denying {61-1} motion for leave to file Second Amended Complaint. (signed by Judge Anne C. Conway) ctc (maa)

9/1/98 75 ORDER appointing Cary R. Singletary as mediator in this action. (signed by Judge Anne C. Conway) ctc (maa)

9/9/98 76 MOTION by EG&G FL. Inc. to appoint mediator Alan M. Gerlach to replace Carey Singletary. (nrs)

9/10/98 77 ORDER appointing granting {76-1} motion to appoint mediator Alan M. Gerlach to replace Carey Singletary (Signed by Judge Anne C. Conway) ctc (hsh)

9/24/98 78 MEDIATION REPORT. Mediation Hearing Held; 9/14/98. Alan Gerlach, Mediator Hearing outcome: Impasse. (maa)

9/24/98 -- **CLEARED mediation flag. (maa)

9/24/98 79 NOTICE of filing affidavits of Linda Kimbrough, William Kehoe, and Leroy Moore by Pearl Morice. (nrs)

10/8/98 80 AFFIDAVIT of Linda Kimbrough by Pearl Morice Re; {70-1} opposition memorandum. (nrs)

10/8/98 81 AFFIDAVIT of William Kehoe by Pearl Morice Re; {70-1} opposition memorandum. (nrs)

10/8/98 82 AFFIDAVIT of Leroy Moore by Pearl Morice Re; {70-1} opposition memorandum. (nrs)

10/26/98 83 MOTION by Sherikon Inc. to strike Plaintiff's supplemental witness list, or for alternative relief, and incorporated memorandum of law. (nrs) {Entry date 10/27/98}

11/17/98 84 RESPONE by Pearl Morice to {83-1} motion to strike Plaintiff's supplemental witness list, or for alternative relief, and incorporated memorandum of law. (nrs)

11/25/98 85 Order granting in part {83-1} motion to Strike plaintiff's supplemental witness list, or for alternative relief, and incorporated memorandum of law. With the exception of Kenneth and Tammie Terry, who were previously identified as persons with knowledge of the case, the additional witness list is stricken. (ssign by Magistrate Judge David A Baker.) ctc (nrs)

12/9/98 86 Motion by Sherikon, Inc for summary final judgement against plaintiff' complaint. (nrs)

12/9/98 87 MEMORANDUM by Sherikon, Inc., is support of { 86-1} motion for summary final judgment against plaintiff's complaint.

12/9/98 88 NOTICE of filing deposition transcript of Raoul Baker by Sherikon. Inc. (nrs)

12/9/98 89 Deposition of Raoul Baker by Sherikon, Inc. re: {86-1} motion for summary Final Judgment against

plaintiff's complaint. Transcript filed seperately. (nrs)

12/9/98 90 NOTICE of filing deposition transcript of Edward Browning by Sherikon, Inc. (nrs)

12/9/98 91 DEPOSITION of Ed Browning by Sherikno, Inc. re: {86-1} motion for summary final judgment against plaintiff's complaint. Transcript filed separately.)nrs)

12/9/98 92 NOTICE of filing deposition transcript of Floyd Roger Kendick by Sherikon, Inc. (nrs)

12/9/98 93 DEPOSITION of Floyd Roger Kendrick by Sherikon, Inc. re: {86-1} motion for summary final judgment against Plaintiff's complaint. Transcript filed separtely, (nrs)

12/9/98 94 NOTICE of filing deposition transcript of Johnny Walker by Sherikon, Inc. (nrs)

12/9/98 95 DEPOSITION of Johnny Walker by Sherikon, Inc. re: {86-1} motion for summary final judgment against plaintiff's complaint. Transcript filed separately. (nrs)

12/9/98 96 NOTICE of filing deposition transcript of Pearl Morice by Sherikon (nrs)

12/9/98 97 DEPOSITION of Pearl Morice by Sherikon. Inc. re: {86-1} motion for summary final judgment against plaintiff's complaint. Transcript filed separately. (nrs)

12/9/98 98 NOTICE of filing deposition transcript of James Lucas by Sherikon, Inc. (nrs)

12/9/98 99 DEPOSITION of James Lucas by Sherikno, Inc. re: {86-1} motion for summary final judgment against plaintiff's complaint. Transcript filed separately.)nrs)

12/9/98 100 NOTICE of filing deposition transcript of Earle Patrick by Sherikon, Inc. (nrs)

12/9/98 101 DEPOSITION of Earle Patrick by Sherikon, Inc. re: {86-1} motion for summary final judgment against Plaintiff's complaint. Transcript filed separtely, (nrs)

12/16/98 102 MOTION by IAM to dismiss or for summary of defendant International Association of Machinists. (nrs)

12/16/98 103 MEMORANDUM by IAM in support of {102-1} motion to dismiss and {102-2}motion for summary judgment of defendant International Association of Machinists. (nrs)

12/28/98 104 RESPONSE BY Pearl Morice in opposition to {102-2} motion for summary judgment of defendant International Association of Machinists. (nrs) {Entry date 12/29/98

12/28/98 105 NOTICE of conflict with trial schedule by Sherikon. Inc. (nrs) {Entry date 12/29/98}

1/4/99 106 NOTICE of filing affidavit of William Kehoe in opposition to Defendant Iam's supplement motion to dismiss or for summary judgment by Pearl Morice. (nrs) {Entry date 01/05/99

1/4/99 107 AFFIDAVIT of William Kehoe by Pearl

Morice Re: {104-1} opposition response. (nrs) {Entry date 1/5/99

1/4/99 108 NOTICE of filing affidavit of Leroy Moore in opposition to Defendant Iam's supplement motion to dismiss or for summary judgment by Pearl Morice. (nrs) {Entry date 01/05/99

1/4/99 109 AFFIDAVIT of Leroy Moore by Pearl Morice Re: {104-1} opposition response. (nrs) {Entry date 1/5/99

1/4/99 110 NOTICE of filing affidavit of Tammie Terry in opposition to Defendant Sherikon Inc.'s motion for final summary judgment by Pearl Morice. (nrs) {Entry date 01/05/99

1/4/99 111 AFFIDAVIT of Tammie Terry by Pearl Morice in opposition to {86-1} motion for summary final judgment against plaintiff's complaint (nrs) {Entry date 1/5/99

12/28/98 112 NOTICE of filing deposition of Johnny Walker and Floyd Roger Kendrick in opposition to Supplemental motion to dismiss or for summary judgment of Defendant International Association of Machinists by Pearl Morice. (nrs) {Entry date 01/05/99}

1/4/99 113 DEPOSITION of Johnny Walker by Pearl Morice in opposition to {102-1} motion to dismiss. Transcript filed separately, (nrs) {Entry date 01/05/99} {Edit date 01/05/99}

1/4/99 114 DEPOSITION of Floyd Roger Kendrick by Pearl Morice in opposition to {102-1 motion to dismiss and {102-2} motion for summary judgment of Defendant

International Association of Machinists. Transcript filed separately. (nrs) {Entry date 01/05/99}

3/8/99 115 NOTICE of supplemental authority IAM in support of {102-2} motion for summary judgment of Defendant International Association of Machinists and {49-2} motion for summary judgment. (nrs)

3/10/99 116 NOTICE of supplemental authority by IAM. (nrs)

3/15/99 117 ORDER granting {44-1} motion for summary judgment, statement of uncontested material facts granting {102-1} motion to dismiss, granting {102-2} motion for summary judgment of Defendant International Association of Machinists, denying as moot[49-1] motion to dismiss denying as moot {49-2} motion for summary judgment denying as moot [56-1] motion to strike untimely File {55-1} opposition response; the clerk is directed to terminate EG&G and IAM as defendant's in this action; upon conclusion of the entire case, the court will enter a final judgment in favor of these defendant's (signed by Judge Anne C. Conway 3/12/99) ctc (hsh)

3/30/99 118 JOINT PRETRIAL STATEMENT. (nrs)

3/30/99 119 MOTION by Sherikon, Inc. in limine to exclude "statistical" evidence. (nrs)

3/30/99 120 MOTION by Sherikon, Inc. in limine to exclude evidence regarding Plaintiff's 1995 employment application process. (nrs)

3/30/99 121 MOTION by Sherikon, Inc. in limine regarding hearsay statements allegedly made by Gloria Glenn. (nrs)

3/30/99 122 MOTION by Sherikon, Inc. with memorandum in support in limine to exclude evidence regarding other person' allegations of discrimination. (nrs)

4/5/99 123 ORDER Plaintiff shall file amended witness list and defendants have leave to file new exhibit list within 5 days. (signed by Judge Anne C. Conway) ctc (maa)

4/5/99 124 ORDER denying for failure to comply with Local Rule 3.01 (g) {122-1 motion in limine to exclude evidence regarding other person' allegations of discrimination. {121-1} motion in limine regarding hearsay statements allegedly made by Gloria Glenn, (120-1{ motion in limine to exclude evidence regarding Plaintiff's 1995 employment application process, and {119-1} motion in limine to exclude "statistical" evidence. { signed by Anne C. Conway) ctc (maa)

4/9/99 125 MOTION by USA with memorandum is support to sqash subpoena served on John Albertson, a compliance Oficer for the Office of Federal Compliance programs of the United States Department of Labor. Referred to Magistrate Judge David A Baker (nrs)

4/13/99 126 NOTICE of filing Plaintiff's amended list of trial witnesses by Pearl Morice (nrs)

4/13/99 127 PLAINTIFF'S amended WITNESS LIST by Pearl Morice. (nrs)

4/13/99 128 MOTION by Sherikon, Inc. for reconsideration of {124-1} order. (nrs)

4/13/99 129 NOTICE of filing amended exhibit list by Sherikon, Inc. (Amended exhibit list attached} (nrs)

4/19/99 130 RESPONSE by Sherikon, Inc. to [125-1] motion to quash subpoena served on John Albertson, a compliance Officer for the Office of Federal Compliance programs of the United States Department of Labor. (nrs)

4/19/99 131 MOTION by Sherikon, Inc. to strike Plaintiff's additional trial witnesses. (nrs)

4/19/99 132 Case on Visiting Judge Thomas A. Wiseman, Jr. trial calendar for trial term commencing 05/03/99 in Tampa (Courtroom 13B) case No. 33. (nrs) [Entry date 4/20/99] [Edit date 04/20/99]

4/21/99 133 AMENDED [181-1] motion to strike plaintiff's additional trial witness (AMENDED) by Sherikon, Inc. (nrs)

4/27/99 134 ORDER granting [86-1] motion for summary judgment against Plaintiff's complaint. The clerk is directed to enter final judgment in favor of Sherikon, EG&G FL. Inc. and IAM providing that Plaintiff shall recover nothing on her claims against them and that they shall recover costs.. All pending motions are DENIED as MOOT. (signed by Judge Anne C. Conway.) ctc MFR Number 98/1726 (nrs) [Entry date 04/28/99]

4/27/99 135 JUDGMENT for EG&G FL. Inc. Sherikon Inc., IAM against Pearl Morice. Civil Apeals Checklist Mailed [signed by Judge Anne C. Conway.) MFR number 98/1745 ctc (nrs) [Entry date 04/28/99]

4/27/99 -- CASE CLOSED. (nrs) [Entry date

5/11/99 136 MOTION by Sherikon, Inc. to tax costs, Referred to Magistrate Judge David A. Baker. (nrs)

5/11/99 137 NOTICE of filing bill of costs by EG&G FL. Inc. (nrs) {Entry date 05/12/99}

5/12/99 138 NOTICE OF APPEAL of {135-1} judgment order, {134-1} order by Pearl Morice Appeal Information sheet sent to Appellant Fee status; pd receipt # 83228 certificate of readiness due on 5/27/99 (rdo)

5/13/99 139 BILL OF COST, taxed in the amount of $2,799.15 ctc MFR number 98/2085 (nrs)

5/13/99 140 AFFIDAVIT of johyn M. Finnigan by Sherikon, Inc. Re: {139-1} bill of costs. (nrs)

5/13/99 141 ORDER denying {136-1} motion to tax costs (Signed by Magistrate Judge David A. Baker) ctc (rdo)

5/14/99 -- Certified copies of notice of appeal, judgment / order under appeal, and docket transmitted to USCA: {138-1} appeal ctc (rdo)

5/14/99 142 CERTIFICATE OF COMPLIANCE by Sherikon, Inc. with Local Rule 3.01 (g) re: bill of cost. (nrs) {Entry date 05/17/99}

5/14/99 143 MOTION by IAM for extension of time nuno pro tuno to file bill of costs, Referred to Magistrate Judge David A. Baker. (nrs) {Entry date 05/20/99}

5/19/99 144 NOTICE of filing bill of costs by Sherikon, Inc. (nrs) {Entry date 05/20/99}

5/20/99 145 BILL OF COSTS, taxed in the amount of $ 5, 742.43 (Sherikon, Inc.) ctc MFR Number 98/2188 (nrs)

5/21/99 146 NO transcript requested for {138-1} appeal. Appeal Information sheet filed. (rdo)

5/24/99 – ENDORSED ORDER granting {141-1} motion for extension of time nuno pro tuno to file of costs (signed by Magistrate Judge David Baker) ctc (rdo)

5/24/99 – NOTICE assigning 11th Circuit case number re: {136-1} appeal USCA NUMBER; 99-11174-f (rdo) {Entry date 05/25/99}

5/24/99 147 NOTICE of attorney appearance for IAM by Mary Jill Hanson, (nrs) {Entry date 05/25/99}

4/19/99 – Certificate of readiness with certified copies of indexed District Court docket sheet sent to USCA. {138-1} appeal (rdo)

6/14/99 – Acknowledgment of receipt of the certificate of Readiness sent from the USCA. (99-11174-F) (rdo)

8/3/99 – Transmitted record on appeal to USCA. {138-1} appeal (Transmittal includes: 6 vol. Of the pleadings; 3 vol of Exhibits;) (rdo)

8/16/99 – Acknowledgement of receipt of the Record on appeal sent from the USCA (99-11174-FF) (rdo)

8/10/99 148 NOTICE of name change of the law firm of Garwood, McKenna, Wolf& Finnigan, P.A. to Ford & Harrison, LLP. (rdo) {Entry date 08/11/00}

11/3/00 149 USCA DECISION (certified copy) {138-1} appeal affirming USDC judgment/order mandate: 10/31/00 USCA EOD; 9/15/00; USCA # 99-11174 (rdo) {Entry date 11/06/00}

11/3/00 150 USCA BILL OF COSTS taxed in the amount of $ 100.81 ctc (do) {Entry date 11/06/00}

11/3/00 -- RECORD on appeal returned from re: {0-0} appeal (ROA consists of: volume pleadings: 6: volume exhibits: 3) USCA# 99-11174-FF (rdo) {Entry date 11/06/00}.

APPENDIX C
(U.S. COURT OF APPEALS JUDGMENT)
FILED SEP 15 2000

United States Court of Appeals
For the Eleventh Circuit

District Court Docket No. 97-00167-CIV

PEARL MORICE

Plaintiff-Appellant,

versus

EG&G FLORIDA, INC.,
SHERIKON ,INCORPORATED, et al,

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

Before BLACK, CARNES and MARCUS, Circuit Judges.

This cause came to be heard on the transcript of the record from the United States District Court for the Middle District of Florida, and was taken under submission by the Court upon the record and briefs on file, pursuant to Eleventh Circuit Rule 34-3;

UPON CONSIDERATION WHEREOF, it is now hereby ordered and adjudged by this Court that the orders of the District Court appealed from in this cause be and the same are hereby AFFIRMED;

IT IS FUTHER ORDERED THAT the plaintiff-appellant pay to the defendants-appellees, the cost on appeal to be taxed in accordance with the Fed. R. App.P.39.

Entered: September 15, 2000
For the Court Thomas K. Kahn, Clerk
By: Matt Davidson
Deputy Clerk

FILED U.S. COURT OF APPEALS
THOMAS K. KAHN CLERK
Sep 15 2000

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No.99-11174
Non-Argument Calendar

D.C. Docket No. 97-00167-CIV-ORL-22

PEARL MORICE,

Plaintiff -Appellant,

Versus

EG&G FLORIDA, INC.,
SHERIKON, INCORPORATED, et al.,

Defendants-Appellees.

Appeal from the United States District Court for the

Middle District of Florida

(September 15, 2000)

Before BLACK, CARNES and MARCUS, Circuit Judges.

PER CURIAM:

Pearl Morice, proceeding Pro Se, appeals various district Court orders in favor of the defendants in her action alleging employment discrimination based on disability under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12112, And discrimination based on race and sex, 42 U.S.C. § 2000e-2 (Title VII); 42 U.S.C. § 1981.

On appeal Morice argues that the "district court erred in The order denying Plaintiff's Motion for Entry on Real Property " She also argues that the district court erred in denying her motions to file a first and second amended complaint Additionally, Morice argues that the district court erred in granting Sherikon, Inc.'s motion to strike Morice ' s supplemental witness list. Finally, Morice contends that the district court erred in granting summary judgment in favor of the defendants. Morice does not argue on appeal that the district court erred in dismissing her state law claim under the Florida Civil Rights Act of 1992. Therefore, that cause of action is deemed abandoned. See Rogero v. Noone, 704 F.2d 518,520 n.1 (11th Cir. 1983).

This Court reviews a district court's discovery rulings for abuse of discretion. See Patterson v. United States Postal Service, 901 F.2d 927,929 (11th Cir. 1990). We review a district court's order requiring compliance with local rules only for an abuse of discretion. See World Thrust Films, Inc. v. International Family Entertainment, Inc., 41 F.3d

1454,1456 (11th Cir. 1995). A district court's decision to enforce its scheduling order will not be disturbed on appeal absent an abuse of discretion. See Sosa v. Airprint Systems, Inc., 133 F.3d 1417, 1418 (llth Cir. 1998). We review de novo the district court's decision to grant summary judgment. See Rooney v. Watson, 101 F.3d 1378, 1380 (11th Cir. 1996), cert. denied, 522 U.S. 966 (1997).

Upon consideration of the complaint, the pleadings and exhibits, the district court's orders, the relevant law, and the parties' briefs, we conclude that: (1) the district court did not abuse its discretion by granting EG&G Florida, Inc ' s ("EG&G") protective order because Morice did not offer adequate grounds for examining EG&G's facility; (2) the district court did not abuse its discretion in denying Morice's motion to amend her complaint for failure to comply with the local rules because Morice's motion did not contain a certificate that counsel had conferred; (3) the district court did not abuse its discretion in denying her motion to file a second amended complaint because that motion was filed beyond the deadline for filing motions to amend; (4) the district court did not abuse its discretion in granting the motion to strike Morice's supplemental witness list because the Morice did not identify the witnesses before the discovery deadline; (5) summary judgment .in favor of EG&G on the ADA claim was properly granted, because Morice did not(establish that EG&G employees communicated to Sherikon their beliefs that Morice had a disability; (6) the district court properly granted summary judgment on Morice ' s claim that the International Association of Machinists and Aerospace Workers discriminated against her by not filing a grievance with Sherikon, because Sherikon was not obligated to hire Morice under the collective bargaining agreement; (7) the district court properly granted Sherikon' s motion for summary judgment because Morice failed to establish

that Sherikon regarded her as having a physical impairment that substantially limited her ability to work and because Morice did not show that Sherikon' s articulated reason for not hiring her was pretextual.

AFFIRMED.

APPENDIX D
(Motion for a Rehearing)
Filed October 3, 1999

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 99-11174-F

PEARL MORICE
Plaintiff-Appellant,
v.

EG&G FLORIDA, INC. SHERIKON INC.
And INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
Defendant-Appellees.

On Appeal from the United States District Court
For the Middle District of Florida

PEARL MORICE PLAINTIFF APPELLANT'S MOTION FOR

A

REHEARING AND REQUEST TO BE PRESENT FOR THE REHEARING

Plaintiff Appellant, Pearl Morice filing Pro Se and pursuant to Rule 40 Fed. R. Civ. P., hereby files this motion for a Rehearing and Request to be present for the rehearing and memorandum of Law.

In support of this Motion Plaintiff Appellant states as follows:

1. Morice argues on appeal that On September 24, 1997 the Plaintiff Appellant's former Attorney requested entry on real property / the work site of Morice,' for October 15, 1997, with no response, or ruling from the court.

"On October 21, 1997, after the date requested for entry had expired the Defendants attorney filed a motion for protection. On November 13, 1997 the Court granted the Defendant Motion, on November 18, Morice former attorney Motion was denied under (Fed. R. Civ. P. 34, 2201). Whether or not the District Court abused its discretion it appears it favored the Defendants. Who did not give relevant law as to why the Plaintiff should not entry real property."

1. Morice argues Whether or not the District Court abused its discretion, in denying Morice's former Attorney to amend the complaint. It appears the District Court showed favor to the Defendants', the District Court was aware of misconduct by Morice former attorney; she filed several untimely motions and was not in compliance with court orders.

(Pleading 229 Amendments to pleadings are to be freely and liberally allowed in order that cases may be resolved on

there merits; doubts should be resolved in favor of allowing Amendment unless and until it appears that privilege to amend will Be abused.}

It appears the misconduct of Morice's former attorney influenced the Courts decision denying Morice to amend the Complaint, " *Forbus v. Sears Roebuck & Co.*, 30 F. 3d 1402, 1404 (11th Cir. 1994).

2. Morice argues Whether or not the District Court abused its discretion, in striking Morice's former Attorney's supplement Witness list, it appears the District Court again showed favor to the defendants, " *United States v. Gilliard*, 133 F.3d 809,812 (11th Cir. 1998)*(citing General Elec. Co. v. Joiner*, 522 U.S. 136, 141, 118 S. Ct. 512 139.

3. Morice also argues Whether or not the District Court abused its discretion, in granting summary judgement for all three Defendants,

"Summary Judgment should be granted only if there is no genuine issue as to any Material facts. If the record presents factual issues, the court Must not decide; it must deny the motion and proceed to trial" *"Clemons v. Dougherty County, Ga., 684 F.2d 1365,1369 (11th Cir. 1982)*

The Depositions, the Witnesses, the Affidavits and the EEOC Complaint of the Plaintiff Appellant is enough to Preclude summary judgment.

"Appellant Plaintiff Morice has proved beyond the shadow of doubt through the factual findings of the evidence presented in the Appeals Court combined with the evidences previously on file with the District Court. All three defendants, EG&G Florida Inc., Sherikon Inc., and I.A.M. made a conscience decision to intentionally discriminate against Morice and other former employees of

EG&G'. For all of the facts and Reasons stated in this appeal, the District Court erred in its decisions. "

The decisions of all three defendants whether in part were motivated by three factors: perceived disability, race and sex. The findings of the facts has shown that all three defendants were parties in the negotiation process of the contract change between EG&G and its sub-contractor Sherikon.

The finding of the facts has also shown that all three defendants were parties in the unlawful acts of discrimination against Morice and other former EG&G employees in determining which of the former EG&G employees would and would not be hired by Sherikon.

The defendants EG&G and Sherikon are both Federally funded agencies. The IAM Union Local 2061 is funded monthly by its members paying dues. Committing such acts of discrimination by Federally funded agencies, is a violation of the law.

4. Morice had no knowledge of the courts dismissing her state law claim under the Florida Civil Right Act of 1992, all records were mailed to Morice's former attorney, the attorney of records who relocated from Rockledge in Brevard County to Miami, Florida February 1996.

5. Morice had no knowledge of the state claim, and was never informed by her former attorney that such a claim existed. Morice learned of the Court order when she received and reviewed her file in April 1998. The Judge's enter the order was in October 1997 and required an answer 30 days from the date of the order.
{Rule 46 of Rules of Appellate Procedure}

"Unprofessional conduct in the form of writing of brief that goes beyond bounds of proper advocacy in characterizing factual record. warrants censure rather than suspension, where inexperience indicates that sanctionable conduct arises out of lack of seasoned judgment. Rather that conscious dishonesty In re Disciplinary Action" Boucher, CA9, 1988, 850 F2d 597.

6. "Morice tried to use precaution when hiring an attorney she required and received a resume she inquired through the Florida Bar association, Prior to hiring her former attorney the Florida Bar stated she was a member in good standing with the Florida Bar, Morice admits she made an error in judgement when selecting her former attorney. Morice was deceived, Mislead, misrepresented and lied to by her former attorney."

7. Morice has complied with this Appeals Court in filing a requested for a rehearing the request is timely within the twenty one days (21) required.

8. Morice also pray this Court will allow Morice to be present for the rehearing and permit Morice to present her argument before this Court.

Morice pray that this case will warrant reversal as in the case of Jennings And Edwards v. BIC, Southland Corporation, d.h.a. 7-Eleven, Defendants-Appellees, Montgomery Ward & Co Defendant-Third Party-Plaintiff-Appellee Pajama Corporation of America, a New york Corporation, Third-Party-Defendant (11th Cir. 1999). In this case the Appeals Court Affirmed the District Court decision although, after closer reviewing the case warranted reversed.

Morice also prays this Appeals Court does not punish her for the misconduct of her former attorney.

Respectfully submitted,

J. Pearl Morice
3812 Stonemount Drive
Cocoa, Florida 32926
Telephone: (407) 638-3584
Facsimile: (407) 633-4533
Appellant-Plaintiff, Pro Se

CERTIFICATE OF SERVICE

I HEREBY CERIFTY that a true and correct copy of the foregoing has been furnished via U.S. Mail to Anthony J. Carriuolo, Esquire Eckert, Seamans, Cherin & Mellott, LC Las Olas Centre, Suite 800 450 East Las Olas Boulevard Fort Lauderdale, Florida 33301. And John M. Finning, Esquire Garwood, McKenna, McKenna & Wolf, P.A. 731 North Garland Avenue Orlando, Florida 32802 And Jill Hanson, Esquire Hanson,Perry & Jensen, P.A. Suite 510-105 Narcissus Avenue West Palm Beach, Florida 33401. This 3rd day of October 2000.

J. Pearl Morice

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE

Alan David Danz
Allen J. McKenna
Anne C. Conway
Anthony J. Carriuolo
David A. Baker
EG&G Florida, Inc.
EG&G Inc.
Ford & Harrison LLP

APPENDIX E
(U.S. District Court of Appeals Judgment)
Filed OCT 18 2000

United States Court of Appeals
For the Eleventh Circuit

No. 99-11174-FF

PEARL MORICE

Plaintiff-Appellant,

Versus

EG&G FLORIDA, INC.,
SHERIKON, INCORPORATED,
INTERNATION ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS

Defendants-Appellees.

Appeal from the United States District Court
For the Middle District of Florida

Before BLACK, CARNES and MARCUS, Circuit Judges.

PER CURIAM

The petition(s) for rehearing filed by Appellant is DENIED.

ENTER FOR THE COURT:

ORD-41

Appendix F
(U.S. District Court of Appeals Transcript)

United States Court of Appeals
11th Circuit Atlanta
56 Forsyth Street, N.W.
Atlanta, GA 30303-2289
(404) 335-6100
99-11174-FF

Thomas K. Kahn, Clerk Pearl Morice v. EG & G Florida, Inc.

Docket #:99-11174-FF Docket Date:05/19/99
Lead Case: Agency:
Short Style: Pearl Morice v. EG & G Florida,
Inc. Nature/Suit: Civil Rights: Employment
Clerk: Lewis, Carol P. Phone: (404) 335-6175
Misc Type: Private Civil

District Information CLOSED
Docket #: 97-00167-CIV-ORL-22 Judge: Anne C. Conway
D kt Date: 02/25/97 District: Florida-Middle
NOA Date:05/12/99 Office: MFL-Orlando Case
Relationships Dkt# Docket # Short Style Relation stat
Judge:
D kt Date:

Pending Motions
Date Emer Motion Party

Thomas K. Kahn, Clerk Pearl Morice v. EG & G Florida, Inc.

PEARL MORICE,

Plaintiff-Appellant,

versus

EG & G FLORIDA, INC., SHERIKON, INCORPORATED, INTERNATION ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS,

Defendants-Appellees.

United States Court of Appeals
11th Circuit-Atlanta
56 Forsyth Street, N.W.
Atlanta, GA 30303-2289
(404)335-6100
99-11174-FF

Thomas K. Kahn, Clerk Pearl Morice v. EG & G Florida, Inc.

Appellant-PRO SE
Morice, Pearl
3812 Stonemount Drive
Cocoa, FL 32926
Phone: (407) 638-3584
Reply Brief Filed filed on 08/11/99
Fees: Paid on 05/12/99

Appellee
Sherikon, Incorporated
No Briefmg Information Found.

EG & G Florida, Inc.
No Briefmg Information Found.

Intemation Association of Machinists and Aerospace
No Briefmg Information Found.

Appellee Attorney
McKenna, Allen J .
815 N. Garland St.
P.O. Box 60
Orlando, FL 32802-0060
Phone: (407) 841-9496
No Briefmg Information Found.

Finnigan, John M.
815 N. Garland St.
P.O. Box 60
Orlando, FL 32802-0060
Phone: (407) 841-9496
Appearance Form Filed: 06/02/99
No Briefmg Information Found.

Carriuolo, Anthony J .
Berger, Davis & Singerman
Suite 1000-350 East Las Olas Blvd.
Fort Lauderdale, FL 33301 Phone:
(954) 525-9900
Appearance Form Filed: 05/28/99
No Briefing Information Found.

Hanson, Jill 105
105 S. Narcissus Ave.,

Suite 510 West Palm beach, FL 33401
Appearance Form Filed: 05/26/99
No Briefing Information Found.

Initial Service

Danz, Alan David
450 E. Las Olas Blvd.
Las Olas Centre, Suite 800

United States Court of Appeals
11 th Circuit-Atlanta
56 Forsyth Street, N.W.
Atlanta, GA 30303-2289
(404) 335-6100
99-11174-FF

Thomas K. Kahn, Clerk Pearl Morice v. EG & G Florida, Inc.

Initial Service
Fort Lauderdale, FL 33301
Phone: (954) 523-0400

United States Court of Appeals
11th Circuit-Atlanta
56 Forsyth Street, NoW.
Atlanta, GA 30303-2289
(404) 335-6100
99-11174-FF

Thomas K. Kahn, Clerk Pearl Morice v. EG & G Florida, Inc.

Entry Date Date 2 Docket Entry Party Pend

05/20/99 / / Briefing Notice Issued ,
05/20/99 / / Staff Attorney Jurisdiction ,

05/20/99 OS/20/99 DKT7 {Docketing 7) issued. ,
cc: Morice, Pearl
cc: Sletten, Richard D.
cc: McKenna, Allen Jo
cc: Finnigan, John Mo
cc: Carriuolo, Anthony J.
cc: Danz, Alan David
cc: Hanson, Jill

05/24/99 Civil Appeal Statement Form ,
05/24/99 Probable Jurisdiction Noted ,
05/26/99 Appearance Form Submitted: Jill Hanson
Hanson, Jill

05/28/99 Appearance Form Submitted:
Anthony J. Carriuolo
Carriuolo, Anthony J.
05/28/99 Certificate of Readiness,

06/02/99 Appearance Form Submitted: John M. Finnigan
Finnigan, John M.

06/28/99 Appellant Brief - Pearl Morice, Pro Se,
07/08/99 / / Telephoned P. Morice {Pro Se) requested that two more, copies of appellant's brief be forwarded asap.

07/08/99 07/08/99 DIS-1 {Dismissal Notice) issued,
To: Morice, Pearl
cc: McKenna, Allen J.
c c: Finnigan, John M.
cc: Carriuolo, Anthony J.

cc: Danz, Alan David
cc: Hanson, Jill

07/16/99 / / Motion for Leave to File record excerpt Out of time,

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07/22/99 / / Record Excerpts (filed out of time by Pearl Morice),

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07/22/99 / / Received Call from aple atty, he does not oppose the oot , mot for rex, however, he does oppose the content, and plans to file a mot to strike aple's rex

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07/23/99 / / Motion to file out of time record excerpts GRANTED by SMG, on 7/22/99.
07/26/99 / / Motion to Strike Appellant's record excerpts,

07/26/99 07/26/99 MOT1 (Motion -10 Day Letter) issued. ,
cc: Morice, Pearl
cc: McKenna, Allen Jo
cc: Finnigan, John M.
cc: Carriuolo, Anthony Jo
cc: Hanson, Jill
cc: Danz, Alan David

United States Court of Appeals
11th Circuit-Atlanta
56 Forsyth Street, N.W.
Atlanta, GA 30303-2289
(404) 335-6100
99-11174-FF

Thomas K. Kahn, Clerk Pearl Morice v. EG & G Florida, Inc.
Entry Date Date 2 Docket Entry Party Pend

07/28/99 Response to Motion: Appellant's to Motion to strike rex ,

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07/28/99 07/27/99 Appellee Brief: Appellee-EG & G Florida, Inc.,:ATTY, McKenna, Finnigan, & Zandy-pt'd cert comp M:8/16/99 :

07/28/99 07/27/99 Appellee Brief: Appellee-Sherikon, Incorporated,: ,atty-Carriuolo & Hankins

---

07/30/99 07/29/99 Appellee Brief: Appellee-Internation Association of, Machinists and Aerospac,: atty Mary Jill Hanson

08/02/99 07/30/99 BR8 (Brief deficiency letter) issued. ,
cc: Morice, Pearl
To: McKenna, Allen J.
To: Finnigan, John M.
To: Carriuolo, Anthony J.
To: Hanson, Jill

08/03/99 / / Appellee Sherikon's response to EG&G's mot to strike, appellant's rex

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08/06/99 / / Exhibits, "

08/06/99 / / Record on Appeal,,

08/11/99 08/09/99 Reply Brief: Appellant-Morice, Pearl (Pro Se) Morice, Pearl

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08/25/99 / / Motion to Strike appellant's reply brief for failing to include, proper certificate of compliance or for exceeding the page . limit requirements and memorandum of law in support

08/30/99 / / Appellant's response in opposition to Appellees motion to, strike appellant's reply brief, etc.

09/03/99 / / Appellee-Sherikon, Incorporated,response to ape eg&g's Sherikon, Incorporated, motion to strike apt's repy brief for untimely service, for exceeding the proper scope for a reply brief, for failing to include proper certification of compliance, or for exceeding the page limit...

09/24/99 / / Appellees' motion to strike appellant's reply brief is, DENIED. Appellees' motion to strike 14 documents from appellant's record excerpts is GRANTED. Appellees' motion for extension of time to file their answer briefs is (see file for complete text) (SFB)J

09/24/99 09/23/99 MOT2 (Motion -Court Action) issued. ,
cc: Morice, Pearl
cc: McKenna, Allen J.
cc: Finnigan, John M.
cc: Carriuolo, Anthony J.
cc: Hanson, Jill
cc: Danz, Alan David

09/11/00 / / Motion for Substitution of Counsel: Appellee-Sherikon, Sherikon, Incorporated,

United States Court of Appeals
11 th Circuit-Atlanta
56 Forsyth Street, N.W.
Atlanta, GA 30303-2289
(404) 335-6100
99-11174-FF

Entry Date	Date 2	Docket Entry	Party	Pend

Incorporated,

09/14/00 / / Appellee, Sherikon, Inc. motion for substition of counsel is, GRANTED. (EEC) 0)

09/14/00 09/14/00 MOT2 (Motion -Court Action) issued. ,
cc: Morice, Pearl
cc: McKenna, Allen J.
cc: Finnigan, John M.
cc: Carriuolo, Anthony J.
cc: Hanson, Jill
cc: Danz, Alan David

09/15/00 / / Opinion Issued,

09/15/00 / / Judgment Entered ,

09/15/00 09/15/00 OPIN1A (Opinion -Issuance with Costs) issued. ,
cc: Morice, Pearl
cc: McKenna, Allen J.
cc: Finnigan, John M.
cc: Carriuolo, Anthony J.
cc: Hanson, Jill
cc: Conway, Anne C.

09/29/00 / / Bill of Costs Filed: Costs awarded to Apellee: Internation Association of
Appellee-Internation Association of Machinists and Aerospac,

10/18/00 / / The petition for rehearing filed by Appellant is DENIED. ,

10/18/00 10/18/00 REHG1 (Rehearing -Transmittal) issued.
cc: Morice, Pearl
cc: McKenna, Allen J.
cc: Finnigan, John M.
cc: Carriuolo, Anthony J.
cc: Hanson, Jill
cc: Danz, Alan David
cc: Conway, Anne C.

10/23/00 10/23/00 WRAP-1 (Wrappers w/ addresses) issued. ,
To: Morice, Pearl

11/01/00 / / CASE CLOSED- Mandate Issued ,

11/01/00 / / Mandate Issued ,

11/01/00 11/01/00 MDT1 (Mandate -Issuance) issued. ,
cc: Morice, Pearl
cc: McKenna, Allen J.
cc: Finnigan, John M.
cc: Carriuolo, Anthony J.
cc: Hanson, Jill

United States Court of Appeals
11th Circuit-Atlanta
56 Forsyth Street, N.W. :
Atlanta, GA 30303-2289
4; (404) 335-6100
99-11174-FF

Thomas K. Kahn, Clerk Pearl Morice v. EG & G Florida, Inc.
Entry Date Date 2 Docket Entry Party Pend
To: Loesch, Sheryl L.
cc: Danz, Alan David

APPENDIX G
(Contract Cover)

COLLECTIVE BARGAINING AGREEMENT

OF

JUNE 4, 1993
BETWEEN
G&G FLORIDA, INC.
AND
INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS
AFL-CIO
Kennedy Space Center, Florida
Effective Date: June 4, 1993
Expiration Date June 3, 1994

APPENDIX H
(Union Severance Pay Schedule)

NASIO-12000

Section J. Attachment J- 3

WAGE. DETERMINATION 82.0151 (Rev.91

DATE 4-13-92 PAGE 67 or 135 PAGE S

B. SEVERANCE PAY: (Continued)

SEVERANCE SCHEDULE

Employees covered under the Collective Bargaining Agreement shall be entitled to layoff allowances as specified below:

Length of Service	Layoff Pay
1 Year to 2 Years	2 Weeks
2 years to 3 years	3 Weeks
3 Years to 4 Years	4 Weeks
4 Years to 5 years	5 Weeks
5 Years to 6 years	6 Weeks
6 Years to 7 Years	7 Weeks
7 Years to 8 Years	8 Weeks
8 Years to 9 Years	9 Weeks
9 Years to 10 Years	10 Weeks
10 Years to 11 Years	11 Weeks
11 Years to 12 Years	12 Weeks
12 Years to 13 Years	13 Weeks
13 Years to 14 years:	14 Weeks
14 Years to 15 Years	15 Weeks
15 Years to 16 Years	16 Weeks
16 years to 17 Years	17 Weeks
18 Years to 19 Years	19 Weeks
19 Years to 20 Years	20 Weeks
20 Years to 21 Years	21 Weeks
21 Years to 22 Years	22 Weeks

Waiting Period For Payoff of Layoff Allowances

Such layoff allowance shall be paid at the end of a waiting period of thirty (30) days from the date of such layoff. An employee who is reinstated in employment with the

Company during the waiting period shall not be entitled to layoff o! allowances as herein provided.

RECALL TO WORK

For the purpose o! reinstatement, all laid off employees shall be recalled on the basis of seniority,'. providing the employee is capable of performing the work required.

0704

APPENDIX I
(Segments from Barker Deposition)

Raoul Barker Deposition taken October 13,1998,
Defendant Sherikon
P. 26 L.18-22
{" In other words, you go to the union and you tell the union that you will honor their collective bargaining agreement until you can in turn, negotiate one of them, so you don't have any labor interruptions, if you will."}

P. 29 L 15-16
{"Well, the first thing we did was to - EG&G arranged for us to meet with the union representatives."}

P. 29 L 24-25 p. 30 1-3
"Then, we met with the EG&G, again, since we - The contract hadn't been awarded yet, we met with EG&G management and Human relations, together With the two primary supervisors that EG&G had over the two big areas we were taking over. We did meet with them together."}

p. 32 L 6-10
{"And prior to this it was only a meeting with Mr. Kendrick and the other unions and giving them a letter stating that I would honor

the collective bargaining agreements they had with EG&G until we could negotiate our own.'] * Andrew v. Louisville and Nashville R. R .Co. (406 U.S. 320 (1972).

P. 49 L 6-13
Q. And what feedback did you receive from Mr. Muzzy?
A. "well, he very reluctantly provided me with a list, with the understanding that once he provided it, I'd Destroy it.
Q. The "he" that you're referring to, now, is whom?
A. John Muzzy, M-U-Z-Z-Y.

P. 52 L 5-10
{" Well, we went over the crew list that I had which showed where people were by location. I think this may have been during the interview, I finally got him to do that much, and just asked him to point out anybody that I definitely should not hire. And as I remember, he put xs by 3 names."}

P. 28 L 5-22
Q. Was it your understanding that any failure to provide continuous service might involve penalties or other punitive measures against whoever was responsible for the lack of continuing service?
A. Yes, because I have incentives. In that particular contract, we had incentives on performance, that if your performance was rated such-and-such or-you get a grade, if you will, that depends on how much of -- what's called an award fee.

I think It's an award fee. You have a couple of fees One is a Standard minimum fee and if you have good performance, you get a little bit more depending what your performance is. So that's one thing the Government holds over your head.

And the other thing is cost. Cost performance. That's at the end of the contract, how well did you come out within your Bid cost? Did you have over runs or under runs, or whatever. And every contract is a little bit different as far as formulas for ward fees and cost fees. Cost performance fees

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APPENDIX J
(Segments from Walker' Deposition)

Johnny Walker' (IAM Union' vice -President) Deposition taken October 1,1998,
P. 6 L 17-25 p. 7 L 1-7, 16-21

"I went and approached I don't remember what manager or supervisor -- there was a lot of them in there at that time. I don't remember which one I had talked to, but I did talk to one of them about it."

{" It was basically her job performance is what they said, her Job performance."}

{" They were picking people as they wanted and they rated it on Job performance. I could put it a different way how it was put, but I'd rather not do that."}

{" No, not exactly. I just got -when somebody tells you some things you can't remember back. There's distinct impressions from them. I got the distinct Impression they wasn't going to hire her."}

APPENDIX K

(Segments from Dublin Deposition)

Jessie Dublin' Deposition taken October 1, 1998, Defendant EG&G)

P. 8 L 21-25 P 9 L 1-6

A. I know she had a problem.
Q. What type of problem?
A. I can't say. I know she was out ill one time.
Q. And how did you come to know that?
A. I think it was in a supervisor meeting or something. We have meetings like once a week and if there's a problem with a certain section or an employee it's brought up in case That section needs some support. As far as someone says that Pearl's out or Jesse's out or James is out and conversation with other employees.
Q Okay. Do you think that while you were supervising Ms. Morice that she did a good job as a Logistics Coordinator?
A. I think she did an excellent job.
Q. Did you ever talk to a Johnny Walker about any Performance problems that Ms. Morice might have had?
A. Johnny Walker?
Q. Johnny Walker who was an official of the union, was a union representative.
A. Did I ever talk to Johnny?
Q. Yes.
A. No. I don't recall talking to Johnny about Ms. Morice at any given time.

P. 10 L. 8, 9
R. Did anyone from Sherikon talk to you about Ms. Morice's job performance?
B. No

APPENDIX L
(Segments from Browning Deposition)

Ed Browning' Deposition taken October 2, 1998, Defendant EG&G p. 16 L 12-15

R. Do you recall writing anything at the request of anyone at Sherikon about Ms. Morice's Performance while you were supervising her at EG&G?
A. I did not.

p. 8, L 18-21 P. 9,10,11,12

Q. How did a person come to get a good egg award?
A. I guess being an above-average employee for the month or period or whatever it was

Folks up in your area really appreciate what you do for them and so do I. Keep up the good job.

Thanks for all that you do to sponsor our customer. This makes my job easy. Thank Ed.

Please Share with your crew. Thanks to Pat and Pearl. we continue to receive survey cards form Satisfied customers using LSC-38

APPENDIX M
(Segments from Lucas Deposition)

James Lucas (EG&G' Manager) Deposition taken October 2, 1998, Defnedant EG&G.

p.9 L. 2-5

A. Ms. Morice's performance was satisfactory with the other employees.

R. Did you communicate either verbally or in writing to anyone at Sherikon about Ms. Morice's job performance as an EG&G Logistics Coordinator?

B. No, ma'am.

Q. Do you know whether Ms. Morice was ever given any Written evaluations while you were manager of the logistic Department?

A. No. The represented people did not get Evaluations.

Q. Okay. And by represented do you mean that Ms. Morice was Covered by a collective bargaining agreement?

A. Yes.

Q. Okay. Do you recall whether you ever talked to Johnny Walker in his capacity as a union representative? Do you recall talking to him about Ms. Morice's performance?

A. No.

APPENDIX N
(Employees not hired by Sherikon)

Employees who took a medical leave of absents.

n. 25	Hire date	Perceived to be Disable	
	07-05-83	William Kehoe	
	06-28-88	James Mosier	
	07-11-88	Pearl Morice	(B)
	06/29/73	Leroy Moore	(B)
	10/01/83	Arliss White	
	01/11/88	Tracy William	(B)
	11/18/89	Linda Kimbrough	(B)

Black Employees not hired by Sherikon

07/07/87	William Cheek
06/11/90	John Cowell
10/15/90	Calvin McWhite
10/05/92	Deborah Denson
10/19/92	John Henry Hunter III

White Employees not hired by Sherikon

03/14/83	Kevin Geyer
03/17/90	Jonathan Hawes
12/11/89	Brian Johnson

Dated this 11th day of JANUARY 2001
Respectfully submitted,

J. Pearl Morice

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